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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CRL.M.C.3553/2012**

GURCHARAN SINGH WALIA Petitioner
Through: Mr. Gurmeet Singh, Advocate

versus

SHASHI SAREEN Respondent
Through: In person

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

% **ORDER**
27.07.2015

In this petition, quashing of complaint under Section 138 of *the Negotiable Instruments Act, 1881* is sought on merits.

At the hearing, it was contended by learned counsel for petitioner that the Notice framed under Section 251 of Cr.P.C. putting petitioner on trial is unsustainable because the complaint in question is not preceded by a mandatory Statutory Notice.

On merits, it was submitted that the cheques in question were given in lieu of the two gold coins weighing 100 grams each and when respondent-complainant could not produce the original bills and hallmark certificate, then petitioner had asked his banker to stop the payment of the cheques in question. Thus, it was submitted that the continuation of proceedings arising out of the complaint in question would be an abuse of the process of the court as there are no chances of petitioner suffering a

conviction in the complaint in question.

On behalf of respondent-complainant, it was submitted that the complaint in question was indeed preceded by Statutory Notice of 25th August, 2012 and its certified copy has been filed alongwith response to this petition. Thus, it was submitted that it is not a fit case for quashing the complaint in question as the question of respondent tendering the original bills and hallmark certificate, etc., is a question of trial which cannot be prejudged at this stage.

After having heard both the sides and on perusal of the complaint in question, the response filed to this petition and the material on record, I find that the quashing of the complaint in question is sought on the grounds which are required to be adjudicated upon at trial and cannot be prejudged amidst trial. Therefore, this Court is not inclined to exercise its inherent extraordinary jurisdiction under Section 482 of Cr.P.C. to quash the complaint in question.

This petition is disposed of while not expressing any opinion on the merits of this case lest it may prejudice either side at trial.

(SUNIL GAUR)
JUDGE

JULY 27, 2015

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