

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

Date of Decision: January 29, 2015

+ (i) **CRL.M.C. 5193/2014 & CrI.M.A.17769/2014**

VIJAY MEHTA Petitioner

Through: Mr. B. P. Singh and Mr. K.V.
Sreemithun, Advocates

versus

STATE (GOVT OF NCT OF DELHI) & ANRRespondents

Through: Mr. Navin Sharma, Additional
Public Prosecutor for respondent-
State

+ (ii) **CRL.M.C. 5197/2014 & CrI.M.A.17777/2014**

VIJAY MEHTA Petitioner

Through: Mr. B. P. Singh and Mr. K.V.
Sreemithun, Advocates

versus

STATE (GOVT OF NCT OF DELHI) & ANRRespondents

Through: Mr. Navin Sharma, Additional
Public Prosecutor for respondent-
State

+ (iii) **CRL.M.C. 5198/2014 & CrI.M.A.17779/2014**

VIJAY MEHTA Petitioner

Through: Mr. B. P. Singh and Mr. K.V.
Sreemithun, Advocates

versus

STATE OF DELHI & ANRRespondents

Through: Mr. Navin Sharma, Additional
Public Prosecutor for respondent-
State

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT
% **(ORAL)**

In the above-captioned three petitions, petitioner's application under Section 311 of Cr.P.C. to recall respondent-complainant in the three complaints under Section 138 of *the Negotiable Instruments Act, 1881* stands dismissed vide order of 13th February, 2014.

Since the challenge to the impugned order in these three petitions is on identical grounds, therefore, these three petitions were heard together and are being disposed of together by this common judgment.

At the hearing, learned counsel for petitioner submits that non-appearance of petitioner's counsel on 20th August, 2014 was due to his being busy in some other court and the recalling of respondent-complainant is essential to confront respondent-complainant with the communications of 30th January, 2003 and reply filed to the legal notice by petitioner.

It was submitted by learned counsel for petitioner that one effective opportunity be granted to petitioner to confront respondent-complainant with the aforesaid communications and the reply.

Upon hearing and on perusal of the impugned order of 20th August, 2014, I find that petitioner has managed to delay the proceedings from September, 2006 till August, 2014.

During the course of hearing, it was brought to the notice of this Court that the matter is now pending for petitioner's evidence. If it is so, then petitioner will have an opportunity to depose in respect of the aforesaid communications of 30th January, 2003 and the reply sent by petitioner to legal notice sent by respondent-complainant.

In view of the aforesaid, recalling of respondent-complainant for further cross-examination is not justified in view of the conduct of petitioner and because respondent suffers no prejudice as he will have opportunity to depose in respect of the communications and the reply filed.

Finding no palpable error in the impugned order, these three petitions and the applications are dismissed while not commenting upon the merits of this case.

(SUNIL GAUR)
JUDGE

JANUARY 29, 2015

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