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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 18.11.2015

CRL.L.P. 561/2015

ASHISH KUMAR BANSAL

..... Petitioner

Through: Mr. C.M. Verma and Mr. Ajit Kumar
Jain, Advocates

versus

VIJAY KUMAR BANSAL

..... Respondent

Through: None

CORAM:

HON'BLE MR JUSTICE SIDDHARTH MRIDUL

SIDDHARTH MRIDUL, J (ORAL)

CRL.M.A.10412/2015 (Exemption)

Exemption granted subject to all just exceptions.

The application is disposed of accordingly.

CRL.M.A.10413/2015 (Delay in Refiling)

The present is an application under Section 482 of the Code of Criminal Procedure, 1973 (Cr.P.C.) seeking condonation of delay in refiling the present petition.

For the reasons stated in the application, the delay in refiling the present petition is condoned.

The application is disposed of accordingly.

CRL.M.A.10411/2015 (Condonation of Delay)

The present is an application under Section 5 of the Limitation Act, 1963 read with Section 482 of the Code of Criminal Procedure, 1973 (Cr.P.C.) seeking condonation of 12 days delay in filing the present petition.

For the reasons stated in the application, the delay of 12 days in filing the present petition is condoned.

The application is disposed of accordingly.

CRL.L.P. 561/2015

1. The present petition under Section 378(4) of the Code of Criminal Procedure, 1973 (Cr.P.C.) seeks leave of this Court to assail the order dated 28.02.2015. A perusal of paragraph 12 of the order impugned herein reveals that it was the case of the complainant that he had advanced a sum of Rs.5,45,000/- to the accused (since acquitted) on the basis of their friendly relations and that the latter had issued the impugned cheques towards discharge of the said friendly loan.

2. On the one hand, the leave petitioner (complainant) chose not to examine his father and/or sister from whom he had purportedly arranged the loan amount before giving it to the accused and on the other has failed to cross-examine DW-2 who deposed on behalf of the accused stating that it

was in fact the complainant who had received loan from the accused through the impugned cheques in question.

3. It is an admitted position that the testimony of DW-2 is not rebutted in all its aspects and consequently the leave petitioner cannot be permitted to impeach the credibility or veracity of DW-2's testimony in the present petition seeking leave to appeal.

4. In view of the foregoing, there is no merit in the present application seeking leave to appeal. The same is accordingly dismissed.

SIDDHARTH MRIDUL, J

NOVEMBER 18, 2015

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