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

Date of Decision: July 13, 2015

+ **CRL.M.C. 2743/2015 & Crl.M.As.9803-04/2015**

SANJAY KUMAR Petitioner
Through: Mr. Shailender Babbar, Advocate

versus

STATE Respondent
Through: Mr. Amit Ahlawat, Additional
Public Prosecutor for respondent-
State with ASI Bijender Singh

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

% **JUDGMENT**
(ORAL)

Petitioner is facing trial in FIR No.9/2011 for the offences under Sections 7/13 of the *Prevention of Corruption Act* registered at P.S. ACB, Delhi for having accepted bribe of ₹1,000/-. Vide impugned order of 2nd July, 2015, defence evidence of petitioner has been closed by observing that petitioner is delaying the trial by getting the witness from the Bank summoned to prove that there was no consideration for having accepted the bribe.

Learned counsel for petitioner submits that the impugned order is unjust and harsh as it denies the legitimate opportunity to petitioner to prove his case. It is submitted that the Statement of Account by the Bank was not proved by the witness (DW-1) from the MCD and therefore, there

is requirement to prove the said Statement of Account from the evidence of an official from the Bank.

Learned Additional Public Prosecutor for respondent-State supports the impugned order and submits that petitioner is deliberately delaying the trial of this case and *DW-1* has already deposed in respect of the Statement of Account in question.

Upon hearing and on perusal of the impugned order and the copy of the evidence of witness (*DW-1*) and the material on record, I find that witness (*DW-1*) has not proved the Statement of Account as the said Statement has been marked in the evidence of witness and has not been exhibited. So, it is essential for the just decision of this case that the said Statement of Account is exhibited examined in the evidence and for this purpose, the deposition of witness from the Bank is necessary. So far as the delay aspect is concerned, petitioner can always be put to terms.

In view of aforesaid, the impugned order is hereby quashed subject to cost of ₹10,000/- and with direction to trial court to afford one effective opportunity to petitioner to get the witness from the Bank summoned to prove the said Statement of Account marked as *DW-1/A*.

With aforesaid directions, this petition and the applications are disposed of.

(SUNIL GAUR)
JUDGE

JULY 13, 2015

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