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

Date of Decision: August 19, 2015

- (i) + **CRL.M.C. 3042/2015**
- (ii) + **CRL.M.C. 3043/2015**
- (iii) + **CRL.M.C. 3044/2015**
- (iv) + **CRL.M.C. 3045/2015**
- (v) + **CRL.M.C. 3046/2015**
- (vi) + **CRL.M.C. 3047/2015**
- (vii) + **CRL.M.C. 3048/2015**
- (viii) + **CRL.M.C. 3049/2015**
- (ix) + **CRL.M.C. 3050/2015**
- (x) + **CRL.M.C. 3051/2015**

MANOJ SHARMA

..... Petitioner

Through: Mr. G.K. Kaushik and Mr. Ankush
Bansal, Advocates with petitioner
in person

versus

RAHUL JAIN

..... Respondent

Through: Mr. Milind Gautam and Mr. Uday
Bhan Singh, Advocates with
respondent in person

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT
(ORAL)

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CRL.M.Cs. 3042/2015 to 3051 of 2015; AND

CrI.M.As.10843, 10845, 10847, 10849, 10851, 10853, 10855,
10857, 10859 & 10861 of 2015 (Stay)

In proceedings under Section 138 of *the Negotiable Instruments*

Act, 1881, trial court vide order of 27th March, 2015 has closed the right of petitioner to cross-examine respondent-complainant and on the last date of hearing i.e. 21st April, 2015, an opportunity to accused to explain the incriminating evidence also stands denied and vide order of 2nd July, 2015, the cases have been posted for orders without hearing the arguments.

Since quashing of impugned orders is sought on identical grounds in these petitions, therefore, they were heard together and by this common judgment, they are being disposed of together.

At the hearing, learned counsel for petitioner contends that petitioner has a good case on merits as the cheques in question were security cheques in lieu of the goods to be supplied in future and petitioner had paid for the goods already supplied. It is submitted that the trial court is literally proceeding in a summary manner without accommodating petitioner whose father had died and due to which, he could not be available on two dates of hearing and on the third date, petitioner's counsel could not appear as he was appearing before another court. Learned counsel for petitioner submits that the impugned orders have resulted in grave prejudice to petitioner and now, these complaint cases are coming up before the trial court for pronouncement of orders.

Upon notice, learned counsel for respondent-complainant submits that despite three effective opportunities, petitioner has not cross-examined respondent-complainant at all and is just interested in delaying the proceedings and so, vide impugned order opportunity to cross-examine respondent-complainant has been rightly closed.

Upon hearing and on perusal of the impugned orders and the

material on record, I find that respondent-complainant has not been cross-examined at all and the case of petitioner is that the cheques in question are security cheques. Be that as it may.

It is the mandate of fair trial that an accused ought to be permitted to put his/her case to the complainant and for the lapse on the part of petitioner, he/she can always be put to terms.

In view of aforesaid, these petitions are allowed and the impugned order of 27th March, 2015 closing petitioner's opportunity to cross-examine respondent-complainant and consequential orders are hereby quashed subject to costs of ₹10,000/- per petition i.e. total cost of ₹1 lac, to be paid to respondent on completion of his cross-examination.

The parties are directed to appear before the trial court on the date fixed i.e. 24th August, 2015. Subject to deposit of aforesaid costs with the trial court on the date fixed, a date, which is convenient for both the sides for cross-examination of respondent-complainant, be fixed by the trial court and only one effective opportunity be granted to petitioner to cross-examine respondent-complainant and if for any unjustifiable reason, petitioner fails to cross-examine respondent-complainant on the date so fixed, then no further opportunity be afforded to petitioner for this purpose.

With aforesaid directions, these petitions and the applications are disposed of.

Dasti.

(SUNIL GAUR)
JUDGE

AUGUST 19, 2015

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