

\$~33

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

+ **CRL.M.C. 110/2016**

MOHD. RAIS & ORS

..... Petitioners

Represented by: Mr.Iqbal Ashraf Rahmani,
Advocate.

Versus

M/S AJAY JAIN (P) LTD.

..... Respondent

Represented by: None.

CORAM:

HON'BLE MR. JUSTICE SURESH KAIT

O R D E R

%

12.01.2016

Crl.M.A. No.477/2016 (for exemption)

Exemptions allowed, subject to all just exceptions.

Accordingly, the application is allowed.

CRL.M.C. 110/2016 & Crl.M.A. No.476/2016 (for stay)

1. Vide the present petition, the petitioners seek directions thereby to set aside the order dated 22.05.2015 passed by the learned Metropolitan Magistrate, Delhi in Old Complaint Case No.10976/14 as well as order dated 19.12.2015 passed in New Complaint Case No.3792/15.
2. It is noted that the petitioners have moved an application under Section 145(2) of the Negotiable Instruments Act, 1881 on four grounds, i.e., (i) the cheques in question were issued as security against the personal loan, (ii) loan amount has been repaid in cash to the complainant, (iii) particulars of cheques have not been filled in by the accused persons etc. and (iv) cheques do not

bear the signatures of the respondent No.2, Mohd. Rehan, the erstwhile Director of respondent No.3.

3. The main thrust of the petitioners is on point No. (ii) that the loan amount has already been repaid in cash and if the petitioners will be able to establish this fact, nothing will remain in the complaint.

4. At this stage, learned counsel appearing on behalf of the petitioners seeks permission to withdraw the instant petition with liberty to lead defence evidence before the learned Trial Court to prove that the loan amount has been repaid in cash to the complainant.

5. Permission granted as prayed for.

6. Accordingly, the instant petition alongwith pending application is dismissed as withdrawn.

7. It is clarified that after leading evidence if the necessity arises to cross-examine the complainant, the petitioners may move the application for the same before the learned Trial Court, which shall be decided in accordance with law.

8. A copy of this order be given *dasti* to the learned counsel for the petitioners.

SURESH KAIT, J.

JANUARY 12, 2016

sb