

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

+ **CRL.M.C. 515/2016**

Date of Decision : April 08th, 2016

SHARDA MA ENTERPRISES PVT LTD Petitioner

Through **Mr.Vijay Kumar Aggarwal** and
Mr.Neeraj Kr. Jha, Adv.

versus

STATE (GOVT OF NCT OF DELHI) Respondent

Through **Mr.Izhar Ahmad, APP.**

CORAM:
HON'BLE MR. JUSTICE P.S.TEJI

P.S.TEJI, J.

1. The present petition under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter shall be referred to as the "Cr.P.C.") read with Article 227 of the Constitution of India has been filed by the petitioner against order dated 23.12.2015 passed by the learned Metropolitan Magistrate, Patiala House Court, New Delhi seeking direction to expedite the trial.

2. The facts giving rise to the filing of the instant petition are that the petitioner had filed a criminal complaint under Section 138 read with Section 142 of the Negotiable Instruments Act, 1881. The said complaint was assigned to the Court below and came up before the

Court on 23.12.2015 on which date the order was passed which reads as under :

“Fresh Complaint Case Received by way of assignment. It will be checked and Registered.

Present : AR of Complainant along with Counsel.

Put up for Consideration on 27/06/2016.”

3. I have heard the arguments advanced by the learned counsel for the petitioner as well as learned Additional Public Prosecutor for the State.

4. Argument advanced by the learned counsel for the petitioner is that the learned MM adjourned the complaint for consideration on 27.06.2016 without taking cognizance and issuing summon to the accused on the same as per direction of Hon'ble Supreme Court in ***India Bank Association and others v. Union of India and others (2014) 5 SCC 590***. In the said judgment, it has been observed that when the complaint under Section 138 Cr.P.C. is presented, the Magistrate shall scrutinize the complaint and if complaint is accompanied by the affidavit and the documents are found to be in order, take cognizance and direct issuance of summons. Further argument advanced by the counsel for the petitioner is that complaint under Section 138 of the N.I. Act is summary trial and the impugned order is against the provision of Section 143(3) of the N.I. Act. He has relied upon judgment in the case of ***Basant India Ltd. v. Vibgyor Infotech 2006 (1) JCC (NI) 68*** in which it was observed that under Section 143 of the N.I. Act, the matter should be disposed of as

expeditiously as possible preferably within six months. Learned counsel further relied upon Circular No.D.O. No.586-594/DHC/Gaz./G-10/Dis./2009 dated 17.04.2009 issued by this Court vide which directions were issued to the Courts below to fix a time frame of three years for deciding trial of each case by fixing time frame for each stage of trial. Learned counsel for the petitioner further argued that on 23.12.2015, AR of the complainant was present for pre-summoning evidence, but the learned MM adjourned the case for 27.06.2016.

5. I have gone through the arguments advanced and the ratio of judgments cited. There is no dispute with regard to law propounded in the above referred judgments that the complaint under Section 138 of the N.I. Act is a summary trial and all efforts must be made by the Courts conducting trial to dispose of the matter as expeditiously as possible. The law propounded in *Indian Bank Association's* case (supra) is also not in dispute. There is also no dispute about the Circular issued by this Court directing the Courts below to make every possible endeavour to dispose of the cases in time bound manner.

6. But this Court cannot lose sight of the fact that the Courts of Magistrates are already over burdened with thousands of cases. Every day, number of new cases are assigned to almost every Court. The Judge holding the Court is to take up the cases/matters as per his diary. The litigant has no right to seek the disposal of his case on priority basis when the other matters are pending and the dates are given as per the diary and roster of the concerned Magistrate.

7. In my view, jurisdiction under Section 482 Cr.P.C. is to be exercised to prevent the abuse to the process of law and to secure the

ends of justice which the petitioner has failed to demonstrate in the instant case. This Court is of the considered opinion that the petitioner has failed to make out any case and this is not a fit case to exercise the jurisdiction under Section 482 Cr.P.C.

8. The petition is accordingly dismissed.

(P.S.TEJI)
JUDGE

APRIL 08, 2016
dd

