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

+ CRL.M.C. 2686/2016

MANI RAM THAPA

..... Petitioner

Through: Mr.Akshay Bhatia, Advocate.

versus

DINESH PARDASANEY

..... Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE P.S.TEJI

ORDER

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28.07.2016

The present petition has been filed under Section 482 Cr.P.C. for setting aside and quashing of order dated 02.06.2016 passed by the learned MM in Criminal Complaint No.459/2014 and order dated 22.07.2016 passed by the learned ASJ and for granting an opportunity to the petitioner to lead defence evidence.

The facts of the case in nutshell are that a complaint under Section 138 of NI Act was filed on the ground that the petitioner had lent a friendly loan of Rs.3,00,000/- to the respondent in the month of April, 2013 for his personal requirements and exigencies. The loan was to repaid within one year. Towards his liability the petitioner had

issued a cheque No..486507 dated 19.04.2014 for Rs.3,00,000/- drawn on State Bank of India, District Court Complex, Saket, New Delhi. The said cheque on presentment was dishonoured with remarks 'Funds Insufficient'. A legal notice dated 06.05.2014 was served upon the petitioner. However, despite service of legal notice, payment had not been made. Thereafter, the complaint in question was filed. On 25.11.2014, notice under Section 251 Cr.P.C. was framed against the petitioner where he pleaded not guilty and claimed trial. The complainant was examined and cross-examined by the Trial Court as CW-1. Subsequent to the same, the complainant's evidence was closed on 10.11.2015.

The statement of petitioner/accused was recorded on 01.12.2015. The petitioner/accused opted to lead defence evidence. However, despite many opportunities, failed to lead any defence evidence and thus DE was closed vide order dated 02.06.2016. Whereafter a revision petition was filed which was dismissed vide order dated 22.07.2016. Hence, the present petition.

I have heard the learned counsel for the petitioner and perused the record.

The Trial Court apart from granting opportunity to the petitioner to lead the defence evidence on 05.01.2016, 04.02.2016, 24.02.2016 and 02.06.2016, had even imposed cost of Rs.7,000/-, but despite that he did not lead the defence evidence and instead prayed for waiver of cost and even moved an application to the said effect. It shows that the petitioner was not interested in leading the defence evidence.

In the aforesaid facts and circumstances, I do not find any ground for setting aside the impugned orders and granting an opportunity to the petitioner to lead the defence evidence.

Dismissed.

JULY 28, 2016/dm

P.S.TEJI, J