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

+ CRL.REV.P. 694/2014 & CrI.M.A. No.17735/2014

BANSAL CREDITS LTD

..... Petitioner

Through: Advocate (Appearance not given)

versus

RAHAT ALI

..... Respondent

Through: None.

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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09.05.2016

1. The petitioner has impugned the order dated 01.10.2014 passed by the learned ASJ in Criminal Appeal No. 05/2014 while observing that the trial of the accused was not fair, just and reasonable, issued the following directions:

"In view of the aforesaid, it appears that the trial of the accused has not been fair, just and reasonable. IT is ergo, considered that it would be in the interest of justice that the trial is held, as per order dated 07-03-2014 of the Ld. Trial Court as a summons case and the accused is given an opportunity to properly defend himself. Accordingly, the judgment dated 21.05.2014 and order on sentence dated 24-05-2014 passed by the Ld. Trial Court are set aside. The case is remanded back to the Ld. Trial Court. Notice under Section 251 Cr.P.C. has been served upon the accused. Ld. Trial Court shall thereafter proceed with trial of the case as a summons case, as per its order dated 07-03-2014, in accordance with law. Ld.Trial Court shall endeavour to conclude the trial as expeditiously as is possible. The appeal is disposed off accordingly. "

2. Notice of the revision petition was sent to the respondent on 16.02.2016. Respondent appeared in person but today respondent is not present.

3. Heard, learned counsel for the petitioner.
4. Learned counsel for the petitioner has submitted that the respondent never denied his liability and the grounds on which the appeal has been disposed of, were not even taken as ground of appeal, hence learned Appellate Court could not have passed the impugned order.
5. On being questioned as to what is the state of trial, it has been informed that the complainant's witnesses have been cross-examined, however, that is subject to the outcome of the writ petition as directed by this Court on 14th January, 2015.
6. Perusal of the impugned order shows that learned ASJ has taken note of the fact that though the complaint case under Section 138 NI Act was ordered to be tried as summons trial, the procedure followed therein was not in accordance with the provisions of the Chapter XX Cr.P.C. Learned Appellate Court also considered the right of the accused to be represented by the legal practitioner as well the fact that at all material stages the accused was not represented by any counsel, further noting that the accused appeared to be poor and un-educated person. The impugned order has been passed by learned ASJ to ensure that accused is defended by his counsel and the trial proceeds in accordance with the procedure prescribed in Chapter XX Cr.P.C.
7. The impugned order does not suffer from any illegality or infirmity hence dismissed.
8. The revision petition stands dismissed.

PRATIBHA RANI, J.

MAY 09, 2016

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