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

DECIDED ON : 27th OCTOBER, 2016

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CRL.M.C.4029/2016

VINEET KUMAR TYAGI

..... Petitioner

Through : Mr.Amar Nath Saini, Advocate.
versus

BHAGAT SINGH CHAUHAN

..... Respondent

Through : None.

CORAM:

HON'BLE MR. JUSTICE S.P.GARG

S.P.GARG, J. (Oral)

CRL.M.A.No.16858/2016 (Exemption)

Exemption allowed subject to all just exceptions.

The application stands disposed of.

CRL.M.C.4029/2016

1. Present petition under Section 482 Cr.P.C. has been filed by the petitioner to challenge the legality and correctness of an order dated 09.08.2016 of learned Metropolitan Magistrate whereby application moved under Section 145 (2) Negotiable Instruments Act filed by the respondent was allowed and he was permitted to cross-examine the complainant.

2. I have heard the learned counsel for the petitioner and have examined the file. Petitioner's counsel urged that the respondent did not specify the grounds in application under Section 145 (2) Negotiable Instruments Act to recall the complainant for cross-examination on his plea of defence. In fact, no such defence was disclosed.

3. The Trial Court has given detailed reasoning to allow the respondent to cross-examine the complainant on his application moved under Section 145(2) Negotiable Instruments Act. It has been noted that the defence of the respondent recorded on 02.11.2015 shows that he was cheated by the petitioner to pay ₹5 lacs on the pretext to provide a job for his son. The defence has been reproduced in the impugned order at page No.3. A case vide FIR No.164/2014 under Sections 420/468/471 IPC has already been registered against the petitioner at PS Tilak Marg regarding the said transaction. The Trial Court further noted that due to poor drafting of the application or on technical ground, a vital right of the respondent for cross-examination cannot be denied when the nature of defence raised requires cross-examination of the complainant on material facts. This Court finds no reasons to deviate from the said reasoning based upon fair appraisal of the facts. Petitioner's conduct has also been noted in the impugned order. In the instant petition also unnecessary grievance has been raised by the petitioner about acceptance of the surety bond by the Court below. It is alleged that fake property documents were furnished by the surety at the time of acceptance of bail. These facts have no relevance to the issue involved in the present petition.

4. I find no illegality or material irregularity in the impugned order and the petition is dismissed in limine.

5. Copy of the order be sent to the Court concerned for information.

(S.P.GARG)
JUDGE

OCTOBER 27, 2016 / tr