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

+ CRL.M.C. 5034/2015

SABIR ALI

..... Petitioner

Through: Ms. Archana Sharma, Mr. T.S. Varun and
Mr. Nishant Varun, Advocates

versus

ABDUL LATIF & ANR

..... Respondents

Through: Mr. Ravi Nayak, APP and SI Vineet, PS-
Anand Vihar for R-2

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

ORDER

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23.03.2016

The present application under Section 439(2) of the Code of Criminal Procedure, 1973 (Cr.P.C.) read with Section 482 Cr.P.C. seeks cancellation of the conditional bail granted to Abdul Latif (respondent No.1 herein) by this Court by way of an order dated 21.08.2015. It would, therefore, be necessary to extract the said order dated 21.08.2015, in order to appreciate the gravamen of the present application:-

“ The present application under Section 438 Cr.P.C seeks anticipatory bail in FIR No.387/2014 u/S 406/420/120B IPC registered at PS Anand Vihar.

The dispute between the complaint/Shabir Ali and the applicant/Abdul Latif has arisen out of the non-performance of an agreement to sell by the latter.

The complainant /Shabir Ali is present in Court today and has been identified by the IO SI Radhey Shyam, P.S Anand Vihar. He states that he has willingly entered into a settlement with the applicant, since the latter has agreed to return the consideration paid by him towards the sale of the subject property.

The applicant/Abdul Latif, who is also present in person and has been identified by his counsel Sh.Shivam Tripathi states that although he entered into a settlement

before the Mediation Centre, he has been unable to comply with the terms thereof. The applicant further states that if granted the facility of deferred payments, he would pay the entire balance amount of Rs.13,10,000/- by 12.11.2015. The complainant is agreeable. The applicant has therefore handed over three post-dated cheques dated 14.09.2015, 12.10.2015 & 12.11.2015 in the sum of Rs.4,36,700/- each drawn on State Bank of India, Patparganj Branch, Delhi in favour of the complainant. The applicant undertakes that the said cheques issued in favour of the complainant/Shabir Ali shall be honoured on presentation. The undertaking is accepted.

The complainant/Shabir Ali states that in the event the post-dated cheques are duly encashed in his bank account on the dates specified therein, he shall co-operate with the applicant/Abdul Latif in quashing of the subject FIR.

In view of the amicable resolution of the property dispute which resulted into the registration of the subject FIR having been settled between the applicant/Abdul Latif and the complainant/Shabir Ali, it is requested that the present bail application be allowed.

In the present case, it is observed that the applicant/Abdul Latif has clean antecedents and does not have any previous involvement. Resultantly, the present application is allowed. In the event of the arrest of the applicant/Abdul Latif, he shall be released on bail, on his furnishing a personal bond in the sum of Rs.20,000/- with one surety in the like amount to the satisfaction of the Arresting Officer/Station House In-charge, subject to the applicant/Abdul Latif complying with the undertaking given to this Court today.

The bail application is disposed of with the above said directions.

Dasti.”

In the present application, it is urged on behalf of Sabir Ali that the post-dated cheques dated 14.09.2015, 12.10.2015 and 12.12.2015 in the sum of Rs.4,36,700/- each, drawn on State Bank of India, Patparganj Branch, Delhi in favour of Sabir Ali were duly presented for encashment by him and were dishonoured by the State Bank of India. The ‘cheque returning advice’ issued by the Axis Bank Limited, Hyderabad, for the afore-stated three cheques, are annexed to the present application.

On 22.01.2016, this Court had observed that none appeared on behalf of Abdul Latif despite service of notice. By way of the said order dated 22.01.2016, this Court further directed issuance of bailable warrants against Abdul Latif. The bailable warrants issued against Abdul Latif were executed on 18.03.2016. However, Abdul Latif has not appeared before this Court.

In view of the foregoing, the order dated 21.08.2015 passed by this Court granting conditional bail to Abdul Latif is recalled and the bail granted to the said Abdul Latif stands cancelled.

With the above directions, the application is disposed of.

SIDDHARTH MRIDUL, J

MARCH 23, 2016
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