

S-32-34

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

+ CRL.M.C. 1035/2017

VIKAS JAIN

..... Petitioner

Represented by: Mr. Vishnu Sharma, Ms.
Sonika Tyagi, Advs.

versus

STATE OF NCT OF DELHI & ANR.

..... Respondent

Represented by: Mr. Ashok Kr. Garg, APP for
State/ R-1.

+ CRL.M.C. 1036/2017

VIKAS JAIN

..... Petitioner

Represented by: Mr. Vishnu Sharma, Ms.
Sonika Tyagi, Advs.

versus

STATE OF NCT OF DELHI & ANR.

..... Respondent

Represented by: Mr. Ashok Kr. Garg, APP for
State/ R-1.

+ CRL.M.C. 1037/2017

VIKAS JAIN

..... Petitioner

Represented by: Mr. Vishnu Sharma, Ms.
Sonika Tyagi, Advs.

versus

CRL.M.C. Nos. 1035/2017, 1036/2017, 1037/2017 & 1038/2017

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STATE OF NCT OF DELHI & ANR.

..... Respondent
Represented by: Mr. Ashok Kr. Garg, APP for
State/ R-1.

+ CRL.M.C. 1038/2017

VIKAS JAIN

..... Petitioner
Represented by: Mr. Vishnu Sharma, Ms.
Sonika Tyagi, Advs.

versus

STATE OF NCT OF DELHI & ANR.

..... Respondent
Represented by: Mr. Ashok Kr. Garg, APP for
State/ R-1.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

% 15.03.2017

Crl.M.A. 4337/2017 in CRL.M.C. 1035/2017

Crl.M.A. 4339/2017 in CRL.M.C. 1036/2017

Crl.M.A. 4341/2017 in CRL.M.C. 1037/2017

Crl.M.A. 4343/2017 in CRL.M.C. 1038/2017

Exemptions allowed subject to just exceptions.

Crl.M.A. 4338/2017 in CRL.M.C. 1035/2017

Crl.M.A. 4340/2017 in CRL.M.C. 1036/2017

Crl.M.A. 4342/2017 in CRL.M.C. 1037/2017

Crl.M.A. 4344/2017 in CRL.M.C. 1038/2017

For the reasons stated in the applications 50 days delay in refiling is
condoned.

Applications are disposed of.

CRL.M.C. Nos. 1035/2017, 1036/2017, 1037/2017 & 1038/2017

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CRL.M.C. Nos. 1035/2017, 1036/2017, 1037/2017 & 1038/2017

1. The petitioner is facing trial in five complaints under Section 138 Negotiable Instruments Act and the four petitions before this Court relate to complaint cases No.1567/1/13, 1601/1/13, 1602/1/13 and 1603/1/13. On 16th December, 2015 the complaints were listed before the learned Metropolitan Magistrate, Rohini Courts and an application under Section 145(2) NI Act was filed on behalf of the petitioner which was allowed and the counsel for the petitioner was asked to cross-examine the complainant. However, since the counsel for the petitioner was busy in the High Court, the cross-examination of the complainant was closed.
2. The petitioner filed applications under Section 311 Cr.P.C. which were allowed vide order dated 19th March, 2016 and one opportunity was granted to the petitioner to cross-examine the witnesses and the complaints were listed on 2nd May, 2016 when learned counsel for the petitioner was not available. In the interest of justice the Court adjourned the matter granting last opportunity to the petitioner to cross-examine the complainant subject to cot of ₹5000/- in each of the case. The matter was thereafter listed for 25th June, 2016 for complainant's evidence. On 25th June, 2016 the petitioner filed an application for waiver of the cost explaining that he had to go to Ujjain, Indore for urgent work to fulfil the desire of his parents of ritual ceremony of PindDaan of his ancestors on 2nd May, 2015 and hence could not be present. The Court noted that that despite opportunities the petitioner failed to cross-examine the witness, hence there was no infirmity in imposing the cost, however reduced the same to ₹3000/- in each of the cases.

3. Aggrieved by the order dated 25th June, 2016 the petitioner filed revision petitions before the learned Sessions Judge, Rohini Courts being Criminal Revision Nos. 27/16, 28/16, 29/16, 30/16 & 31/16. Allowing the revision petitions vide the impugned order dated 17th September, 2016 the cost was reduced to ₹2000/- in each of the matters.

4. The limited grievance of the petitioner in the present petitions is imposition of cost. Learned counsel for the petitioner states that when the matter was listed on 2nd May, 2016 it was a justifiable reason for him to have not attended the Court and hence imposition of cost was illegal and the impugned orders are required to be set aside on this count.

5. Having perused the record this Court finds that despite repeated opportunity on one pretext or another the petitioner was not present. Even if learned counsel for the petitioner was to go to Ujjain on 2nd May, 2016 he ought to have made an alternative arrangement because it was the last opportunity granted. Considering the fact that the cost has already been reduced to ₹2000/- in each of the cases, this Court finds no reason to further modify the order impugned.

6. Petitions are dismissed. Order dasti.


MUKTA GUPTA, J.

MARCH 15, 2017
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