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

+ CRL.REV.P. 61/2017, Crl. M.B. no. 97/2017 & Crl. M.A. No. 3618/2017

MUKESH KUMAR VASHISHT Petitioner
Through :Mr. R.C. Tiwary and Mr. Jagdish,
Advs.

versus

THE STATE Respondent
Through :Mr. Tarang Srivastava, APP with SI
Satbir Singh, P.S. Tilak Nagar
Mr. H.R. Dhamija, Adv. with
complainant in person.

CORAM:
HON'BLE MR. JUSTICE A.K. PATHAK

ORDER
% **07.03.2017**

Petitioner was convicted by the trial court under Sections 420/471/506 (ii) IPC and sentenced to undergo imprisonment of one year each with fine of ₹5,000/- under Sections 420/471 IPC and in default of payment of fine simple imprisonment for 30 days and also sentenced to undergo imprisonment of six months under Section 506(ii) IPC. All the sentences were directed to run concurrently. Petitioner preferred an appeal, which has been dismissed by the learned Additional Sessions Judge, by the judgment

impugned in this petition under Section 397 Cr.P.C.

There are concurrent findings on the guilt of the petitioner returned by the trial court and appellate court, on appreciation of evidence. In exercise of supervisory jurisdiction under Section 397 Cr.P.C. High Court has not to re-appreciate the evidence and render a finding of fact. Revisional jurisdiction cannot partake appellate jurisdiction. High Court will interfere only if flagrant violation of any legal principle is there or the concurrent findings have resulted in miscarriage of justice.

FIR no. 512/1994 under Sections 420/471/506(ii) IPC was registered at Police Station Tilak Nagar, on the complaint of Ms. Kanta Sharma, who is the sister of petitioner. In nutshell, complainant alleged that petitioner induced her to give him ₹1 lac in the month of January, 1993 on the pretext that he will invest the same in the share market and double the money within a period of one year. He again took ₹1 lac in the month of February, 1993 from the complainant. He gave post-dated cheques of ₹4 lacs payable on 31st January, 1994 for the amounts given in January and February, 1993. In the month of March, 1993, she again gave ₹1.5 lacs to the petitioner and in turn he handed over a post-dated cheque of ₹3 lacs payable on 31st March, 1994. She again paid ₹1 lac in the month of April, 1993. On this occasion,

petitioner handed over a cheque of ₹1 lac payable on 25th December, 1993. Petitioner promised her to pay the interest on ₹1 lac, but he did not pay the interest. On presentation, all the cheques were returned dishonoured. After registration of the FIR, petitioner was arrested. During the hearing of bail application, petitioner produced a receipt dated 13th June, 1993 allegedly signed by her to show that he had given ₹3.30 lacs to her towards full and final settlement. She alleged that receipt was a forged document and did not contain her signatures. Husband of the complainant also filed a complaint case no. 111/1 against the petitioner, out of the same transactions. Said complaint case was amalgamated with the FIR No. 512/1994, vide order dated 15th February, 1996 passed by the Metropolitan Magistrate.

During the course of hearing, learned counsel for the petitioner has failed to point out any flagrant violation of legal principles nor that concurrent findings have resulted in the miscarriage of justice; rather has given up the challenge on merits. However, learned counsel, on instructions, has prayed for the reduction of sentence. It is submitted that petitioner and complainant have now settled their disputes amicably. Ms. Kanta Sharma is present in Court, along with her counsel Mr. H.R. Dhamija, and submits that sentence of the petitioner may be reduced in view of the

settlement. It is submitted that petitioner is about 52 years of age and has a family. Petitioner's wife is suffering from several ailments and is presently living alone as petitioner is in jail. Petitioner has only one son, who is settled in Bangalore. Petitioner's presence is required to look after her.

Petitioner is in incarceration for more than two months. Keeping in mind the above facts, sentence of the petitioner is reduced to the period already undergone by him. Fine has already been deposited and receipt has been produced. Petitioner be released from jail in case he is not required in any other case.

Petition is disposed of in the above terms. Miscellaneous applications are disposed of as infructuous. Dasti.

A.K. PATHAK, J.

MARCH 07, 2017

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