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

+ **CRL.M.C. 3848/2016 & CrI.M.A. 16121/2016 (stay)**

SURINDER KUMAR MEHRA

..... Petitioner

Represented by: Mr. Praveen Kumar Jain, Mr.
Tarun Arora, Advs.

versus

STATE & ANR.

..... Respondent

Represented by: Mr. Amit Ahlawat, APP for
State.
Mr. Kashmir Singh Sidhu,
Adv. for R-2.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

19.04.2017

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Learned counsel for the petitioner states that parties have since entered into a settlement and respondent No.2 is present in Court to make a statement that the matter has been settled between the parties and he has received the payment from the petitioner.

The petitioner was convicted for offence punishable under Section 138 of the Negotiable Instruments Act vide the judgment dated 11th March, 2015 passed by the learned Metropolitan Magistrate. Challenging the judgment of conviction and order on sentence dated 25th March, 2015 the petitioner filed an appeal before the learned Additional Sessions Judge being CrI.A. No.08/15 which was also dismissed vide order dated 17th September, **CRL.M.C. 3848/2016**

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2015. However, the learned Additional Sessions Judge in appeal modified the order on sentence dated 25th March, 2015 and directed the appellant to pay a compensation of ₹6 lakhs to the complainant/ respondent No.2 within one month from the date of order in default whereof he was to undergo simple imprisonment for 18 months. The petitioner was further directed to pay interest @ 12 % p.a. on the compensation of ₹6 lakhs if the compensation amount was paid after one month of the order dated 17th September, 2015 disposing of the appeal passed by the learned Additional Sessions Judge.

Aggrieved by the order of the learned Metropolitan Magistrate convicting and sentencing the petitioner and the appeal order dated 17th September, 2015, the petitioner filed a Criminal Revision Petition No.668/2015. Crl.Rev.P.668/2015 was disposed of on 13th June, 2016 whereby the punishment as enhanced by the appellate Court was set aside and conviction and order on sentence passed by the learned Metropolitan Magistrate was upheld. This Court while disposing of the Crl.Rev.P.668/2015 granted liberty to the petitioner to pay the amount of compensation to the complainant/respondent No.2 on or before 31st July, 2016 or surrender before the Trial Court on 31st July, 2016 to undergo the period of sentence in default of payment of compensation.

The petitioner filed an application before this Court being Crl.M.A. 12767/2016 in Crl.Rev.P.668/2015 seeking extension of time and modification of the order dated 13th June, 2016. The said Crl.M.A.12767/2016 was dismissed by this Court on 17th August, 2016 by noting that this Court had become *functus officio* hence no application for
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extension of time could be entertained by this Court.

Now the petitioner has preferred the present petition under Section 482 Cr.P.C.. The prayer in the present petition is to compound the offence, suspend the sentence passed by the learned MM on 11th March, 2015 and condone the delay in payment of compensation to the respondent No.2/ complainant which is 16 days. As noted above, the petitioner has already exhausted his remedies before this Court by filing a revision petition which was disposed of by this Court on 13th June, 2016. He has also filed an application in the revision petition for extension of time which has also been dismissed. By entertaining the present petition under Section 482 Cr.P.C., this Court cannot sit in appeal or modify the order passed by a coordinate Bench of this Court in CrI.Rev.P.668/2015 and CrI.M.A. 12767/2016.

Present petition and application are dismissed as not maintainable.

MUKTA GUPTA, J.

APRIL 19, 2017

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