

\$~19

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

+ CRL.M.C. 1216/2016

POONAM BANSAL & ORS Petitioners

Through: Mr. Apurv, Advocate

versus

STATE OF NCT DELHI & ANR Respondents

Through: Mr. Akshai Malik, APP for the State
Mr. Brijesh Kumar Gupta, Adv. with
Mr. Anshul Kumar, Adv. for R-2.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

% **14.08.2018**

On the complaint (CC No.3567/12) of the second respondent alleging offence punishable under Section 138 of the Negotiable Instruments Act, 1881, the petitioners along with some others have been summoned as accused. At the stage of consideration of the case for putting them on trial on notice under Section 251 of the Code of Criminal Procedure, 1973 (Cr.P.C.), the petitioners had raised issue that they were not partners of the firm against the account of which cheque was issued. The Metropolitan Magistrate, by her order dated 29.02.2016, repelled the said contention observing that the question as to whether they were partners or not would be a matter of trial, given specific averments in the complaint that they had represented themselves to be partners and had signed certain agreements with the complainant.

The petitioners challenged the above said order before the court of Sessions invoking its revisional jurisdiction by way of revision petition No.31/2016, which was also dismissed by order dated 15.03.2016. It is the

said order which is sought to be assailed by the petition under Section 482 Cr.P.C. before this court.

Against the above backdrop, question arose as to whether the petitioner having availed of the remedy of revision should be allowed to have recourse to the petition at hand as a substitute for virtually a second revisional challenge or scrutiny which is clearly barred under Section 397 (3) Cr.P.C.

This Court in an almost similar fact-situation, taking note of the decisions of the Supreme Court reported as *Krishnan Vs. Krishnaveni*, (1997) 4 SCC 241; *Rajinder Prasad Vs. Bashir*, (2001) 8 SCC 522 and *Kailash Verma vs. Punjab State Civil Supplies Corporation & Anr.*, (2005) 2 SCC 571 and following similar view taken by a learned single Judge of this Court in *Surender Kumar Jain vs. State & Anr.*, ILR (2012) 3 Del 99 in absence of a special case being made has earlier declined to interfere by the ruling (dated 03.07.2018) in Crl.M.C. 164/2018 *Ajay Maini vs. The State Govt. of NCT of Delhi & Ors.* in exercise of extraordinary jurisdiction under Section 482 Cr.P.C.

There are no special circumstances made out in the case at hand for the revisional court's view to be disturbed.

The petition is dismissed.

R.K.GAUBA, J.

AUGUST 14, 2018

vk