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IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on:- 28th November, 2018

+ CRL.M.C. 1988/2016 and Crl. M.A. 8437/2016

RAJESH KUMAR

..... Petitioner

Through: Mr. R.K. Kapoor, Ms. Rekha Giri
and Ms. Shweta Kapoor, Advocates

versus

VIKRAM RANA

..... Respondent

Through: Mr. Sherafgon, Advocate

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER (ORAL)

1. The petitioner had filed a criminal complaint against the respondent on 18.09.2009 alleging offences under Section 138 of the Negotiable Instruments Act, 1881 (NI Act) having been committed. The respondent was acquitted by the Metropolitan Magistrate by judgment dated 24.02.2012 on the finding that the cheque in question was never issued in favour of "*Rajesh Sahni*". The respondent, after such decision, moved an application under Section 340 of the Code of Criminal Procedure, 1973, alleging offences punishable under Sections 193, 196, 200, 209, 211 of Indian Penal Code, 1860 having been committed by the petitioner in respect of the cheque in question

and the allegations made in the said criminal complaint case. The Metropolitan Magistrate after issuing notice to the petitioner, by his order dated 23.06.2015, held that, in his opinion, it was expedient and in the interest of justice that inquiry be made against the petitioner for making false statements in the complaint and furnishing false evidence on oath, this leading to a formal complaint being preferred before the Chief Metropolitan Magistrate.

2. The petitioner challenged the said order in the court of the Sessions by criminal revision petition (no.44/2015). The said revision petition was dismissed by the said court on 26.02.2016.

3. The petitioner has come up to this court by the petition at hand invoking its jurisdiction under Section 482 Cr. PC to assail the concurrent opinion recorded by the two courts below, his prime argument being that the allegations are incorrect and that he is being falsely implicated.

4. 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.

5. 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 CrI.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.

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

7. The petition and the application filed therewith are dismissed. The contentions of the petitioner on merits of the case against him are, however, reserved and may be agitated at the trial on the complaint which has been preferred under directions of the court of the Metropolitan Magistrate.

R.K.GAUBA, J.

NOVEMBER 28, 2018

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