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

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Judgment delivered on: 11.09.2018

+ CRL.REV.P. 781/2018

ARVIND KUMAR SINGH

..... Petitioner

versus

PRADEEP GUPTA

..... Respondent

Advocates who appeared in this case:

For the Petitioner : Mr. Shesh Datt Sharma, Adv.

For the Respondent : Nemo.

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

11.09.2018

SANJEEV SACHDEVA, J. (ORAL)

Crl.M.A.31726/2018 (exemption)

Exemption is allowed subject to all just exceptions.

Crl.Rev.P.781/2018 & Crl.M.A. 31727/2018 (stay)

1. The petitioner impugns the order dated 19.07.2018 whereby the application under section 245 Cr.P.C. of the petitioners seeking discharge has been rejected. The petitioner is alleged to commit an offence under section 138/141 of the Negotiable Instruments Act.

2. Learned counsel for the petitioner submits that the subject cheques were given as blank cheques as security cheques and the respondent complainant had subsequently filled up the same. He further submits that

the payment towards the subject cheques had already been made to the complainant; however, he has not given credit for the same. Further, it is contended that petitioner had stopped the payment of the cheques as no amount was due and no statutory notice was served on the petitioner.

3. By the impugned order dated 19.07.2018, the Trial Court has rejected the application on the ground that on the prima facie view of the case, an offence under section 138 of the NI Act is made out against the accused and he would be given an opportunity to put forth his defence during trial.

4. I find no infirmity in the view taken by the Trial Court. The grounds raised by the petitioner *inter alia* that the cheques were security cheques and have been misused, no statutory notice was served, payment towards the said cheques have already been made are all matters of trial, the petitioner has admittedly signed the cheques. The defence of the petitioner is something that would be tested at the stage of trial.

5. In my view also, in facts of this case, petitioner is not entitled to discharge under section 245 Cr.P.C.

6. In view of the above, I find no merit in the petition.

7. Petition is accordingly dismissed.

8. Order *Dasti* under signatures of the Court Master.

SEPTEMBER 11, 2018/ab

SANJEEV SACHDEVA, J