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

+ CRL.M.C. 324/2016
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RANJIT SINGH PURWAHA

..... Petitioner

Through: Mr. Pawanjit S. Bindra, Advocate
with Ms. Rishika Arora, Advocate

versus

M/S HARSHA ASSOCIATES PVT. LTD. & ORS Respondents

Through: Mr. Neeraj Grover, Advocate with
Ms. Anushka Arora, Advocate

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

% **10.12.2018**

These petitions under Sections 482 of the code of Criminal Procedure, 1973 (Cr.P.C.) bring a challenge to the common order dated 30.11.2013 of the Metropolitan Magistrate passed in eight criminal cases (CC Nos.7221/13, 7012/13, 7138/13, 7312/13, 7604/13, 8203/13, 8204/13, and 8205/13) as also the common order dated 13.02.2015 of the court of sessions passed in criminal revision petitions (CR Nos.37/14, 19/15, 20/15, 21/15, 22/15, 23/15, 24/15, and 25/15).

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The order of the Metropolitan Magistrate related to criminal complaint cases which had been instituted by the petitioner against the respondents, each alleging offence punishable under Section 138 of the Negotiable Instruments Act, 1881 having been committed on account of there being no payment despite notices of demand in the wake of dishonour of eight different cheques, which had statedly been issued pursuant to a settlement dated 25.11.2011 against the backdrop of proceedings arising out of FIR No.121/2010 of Police Station Economic Offences Wing, involving offences punishable under Sections 406/409/420/120-B of the Indian Penal Code, 1860 (IPC).

The respondents had been initially summoned by the Metropolitan Magistrate on the basis of pre-summoning inquiry, assumably, *inter alia*, on the basis of presumptions arising from the issuance of the said cheques and the association of the second to fourth respondents herein with the first respondent company against whose account the said cheques were issued. The respondents at the stage of framing of notices under Section 251 Cr.P.C. raised certain contentions as to there being no liability due. The Metropolitan Magistrate, by his order dated 30.11.2013, which is impugned, upheld the said contentions and drawing curtain on the said complaint cases.

The petitioner (as the complainant) approached the court of sessions invoking its revisional jurisdiction but without success as the said petitions were dismissed by order dated 13.02.2015, which is also impugned by the petitions at hand.

After some hearing, the learned counsel for the respondents fairly conceded that the impugned order of the metropolitan magistrate dated 30.11.2013, and of the court of sessions dated 13.02.2015, may be set aside and the proceedings in the criminal complaint cases be revived for framing of notices under Section 251 Cr.P.C., his submission being that the contentions and defences raised before the metropolitan magistrate may be preserved and protected so that the same can be agitated at the appropriate stage of the proceedings including by taking out appropriate remedy after the framing of notices under Section 251 Cr.P.C.

Ordered accordingly.

The parties are directed to appear before the concerned Metropolitan Magistrate on 14th January, 2019.

The petitions stand disposed of with above directions.



R.K.GAUBA, J.

DECEMBER 10, 2018

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