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IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on:- 11th July, 2018

\+ CRL. M.C. 2611/2015

RAJESH WADHWA ..... Petitioner
Through: Mr. Deepak Dhingra, Adv.

versus

RAJESH GULLA ..... Respondent
Through: Ms. Shriya Chanda & Mr. Rakesh Malhotra, Adv.

\+ CRL. M.C. 2612/2015

RAJESH WADHWA ..... Petitioner
Through: Mr. Deepak Dhingra, Adv.

versus

RAJESH GULLA ..... Respondent
Through: Ms. Shriya Chanda & Mr. Rakesh Malhotra, Adv.

CORAM:
HON'BLE MR. JUSTICE R.K.GAUBA

ORDER (ORAL)

1. The petitioner is facing prosecution in two complaint cases (CC No. 5011/1/12 and CC No. 4784/1/12) in the court of Metropolitan Magistrate wherein trial commenced with the service of notice under Section 251 of the Code of Criminal Procedure, 1973 with accusations of offence punishable under Section 138 of Negotiable Instrument Act, 1881 having been leveled concerning cheque bearing nos. 174907

dated 03.02.2012 and 174906 dated 31.01.2012 for Rs. 10 lakh each. The petitioner had challenged the said prosecution and the orders whereby he was put on trial by the Metropolitan Magistrate by approaching the Court of Sessions invoking its revisional jurisdiction by petitions (CR No. 75/14 & 76/2014) on the ground that there was no averment in the complaint or in the evidence about the complainant i.e. the respondent herein having advanced the loan, for refund of which the cheques had allegedly been issued. The revision petitions, however, were dismissed by similar judgments dated 12.03.2015. The petitioner has sought to assail the orders of the revisional court through the petitions at hand filed under Section 482 Cr.P.C.

2. Against the above backdrop, a question arose as to whether the petitioners having availed of the remedy of revision should be allowed to take recourse of Section 482 Cr.P.C. as a substitute for bringing virtually a second revisional challenge or scrutiny which is clearly barred under Section 397 (3) Cr.P.C.

3. 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 out, has earlier declined to interfere by order 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.

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

5. The petitions and the pending applications are dismissed.

R.K.GAUBA, J.

JULY 11, 2018
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HIGH COURT OF DELHI
सत्यमेव जयते