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IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on: 29th August, 2018

+ CRL.M.C. 5147/2015 and Crl. M.As.18538-18539/2015

AMIT SHARMA

..... Petitioner

Through: Mr. Manish Aggarwal, Ms. Runul
Rastogi and Ms. Sudha, Advocates

versus

MOHIT SHOKEEN

..... Respondent

Through: Mr. Vinod Kumar and Mr. Manoj
Gera, Advocates

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER (ORAL)

1. The petitioner was summoned by the Metropolitan Magistrate by order dated 07.05.2014 in complaint case (no.CC 332/1) instituted by the respondent alleging offence under Section 138 of the Negotiable Instruments Act, 1881. He challenged the said summoning order before the court of Sessions by Criminal Revision No.92/3 which was dismissed by order dated 26.08.2015. The prime contention urged by him is with reference to prayer clause (b) in the complaint case indicating that against the cheque of Rs.3,50,000/-, an amount of Rs.2,30,000/- had remained outstanding, Rs.1,20,000/-

having been paid by the petitioner. This, in the submission of the petitioner renders the prosecution false and bad in law.

2. 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.

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 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.

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

5. The petition and the applications filed therewith are dismissed.

R.K.GAUBA, J.

AUGUST 29, 2018/yg