

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of Order: January 30, 2019

+ CRL.M.C. 249/2019

SARDAR SAVINDER SINGH Petitioner

Through: Mr. Rohit Sharma, Advocate

Versus

KANCHAN BATRA & ANR Respondents

Through: Nemo.

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
(ORAL)

Crl.M.A. 1068/2019 (Exemptions)

Allowed, subject to all just exceptions.

Crl.M.A. 1069/2019 (delay)

There is delay of 10 days in re-filing the accompanying petition.

For the reasons stated in the application, it is allowed and the delay is condoned.

The application is disposed of.

CRL.M.C. 249/2019

Petitioner's complaint of cheating under Section 200 of Cr.P.C. and application under Section 156 (3) of Cr.P.C. was disposed of in view of the settlement arrived at between the parties for a sum of ₹72,000/-. Petitioner's aforesaid complaint of cheating and application were

dismissed by the trial court and before the revisional court, compromise arrived at between the parties was for a sum of ₹72,000/-.

According to petitioner's counsel, respondent/accused had given a cheque for ₹72,000/- which had bounced and so, revival of the revision petition and issuance of non-bailable warrants against accused was sought and the revisional court vide impugned order of 12th January, 2018 has dismissed petitioner's application by observing that the application is not maintainable, as the remedy with the petitioner is to file a complaint under Section 138 of Negotiable Instruments Act, 1881 in respect of the dishonouring of cheque of ₹72,000/-.

To assail the impugned order, petitioner's counsel seeks to rely upon the status report filed by the police to the effect that the accused had issued the cheque in question and so, it is submitted that petitioner's complaint and application under Section 156(3) of Cr.P.C. ought to be revived. Petitioner's counsel further submits that complaint under Section 138 of Negotiable Instruments Act, 1881 cannot be filed against respondent/accused, as the cheque of ₹72,000/- is no longer valid and it cannot be presented again for payment.

Notice of this petition to respondent Nos. 2 & 3 is not required to be issued, as respondent No. 2 despite service has chosen not to appear before the revisional court and respondent No. 3 is said to be absconding.

Upon hearing and on perusal of the impugned order of 12th January, 2018, I find that the revisional court has erred in dismissing petitioner's application for revival of the revision petition as respondents-

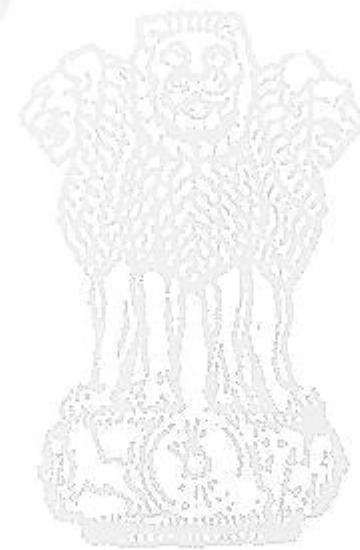
accused have chosen not to abide by the settlement arrived at between the parties.

Accordingly impugned order of 12th January, 2018 is hereby set aside with direction to the revisional court to restore petitioner's revision petition and hear it on merits in accordance with the law.

With aforesaid directions, this petition is accordingly disposed of.

JANUARY 30, 2019
p'ma

(SUNIL GAUR)
JUDGE



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