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

+ CRL.REV.P. 119/2019
SH. ANIL KUMAR JAINTH Petitioner

Through: Mr. Anuj Kumar and Mr. Akash
Chaudhary, Advocates

Versus

STATE & ANR Respondents

Through: Mr. Izhar Ahmad, Additional
Public Prosecutor for State
Mr. Parvesh Chaudhary, Advocate
for Respondent No. 2

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
28.01.2019

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CRL.REV.P. 119/2019 & CrI.M.(B) 173/2019, CrI.M.A. 1889/2019 & CrI.M.A. 1888/2019

In proceedings under Section 138 of Negotiable Instruments Act, 1881, trial court has sentenced petitioner to simple imprisonment for six months and he has also been directed to pay compensation of ₹7,20,000/- with 9% interest to the complainant/respondent No.2. The aforesaid order has been affirmed in the appeal.

Along with this revision petition, settlement of 23rd January, 2019 (*Annexure-I*) has been annexed.

Upon notice, counsel for respondent No. 2/complainant submits that respondent No. 2 is present in the Court and he has been identified to

be so by his counsel as well as by learned Additional Public Prosecutor for State on the basis of identity proof produced by him.

Respondent No. 2 submits that today he has received demand draft of ₹9,50,000/- from petitioner and so, the proceedings arising out of FIR in question be brought to an end.

Learned Additional Public Prosecutor for State points out that in terms of Supreme Court's decision in '*Damodar S. Prabhu Vs. Sayed Babalal H.* (2010) 5 SCC 663, petitioner has to deposit 15 percent of the cheque amount as costs which comes to ₹1,08,000/-.

At this stage, petitioner's counsel submits that in terms of Supreme Court's decision in '*Damodar S. Prabhu (Supra)*', the costs shall be deposited with the trial court within a week.

In the light of the Supreme Court's decision in *Damodar S. Prabhu (Supra)* and facts of the instant case, the impugned order is set aside, subject to petitioner depositing the costs of ₹1,08,000/- with the trial court within a week from today. Upon placing on record the proof of deposit of costs with the trial court, let warrants of release of petitioner be issued by the trial court forthwith, with the rider that petitioner be released from jail in this case, if not wanted in any other case.

This petition and applications are accordingly disposed of in aforesaid terms.

A copy of this order be given *dasti* under the signatures of Court Master to counsel for the parties.

(SUNIL GAUR)
JUDGE

JANUARY 28, 2019
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