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

+ **CRL.REV.P. 804/2019 & CrI.M.As.32687-89/2019**

GAJENDER KUMAR

..... Petitioner

Through: Mr. Amitesh Pandey, Adv. with
the petitioner in person

versus

RAMAN DASS

..... Respondent

Through: Respondent in person

CORAM:

HON'BLE MR. JUSTICE CHANDER SHEKHAR

ORDER

% **28.08.2019**

1. The present criminal revision petition has been filed by the petitioner under Sections 397/401 of the Code of Criminal Procedure, 1973 (Cr.P.C.) read with Section 482 of the Cr.P.C. for setting aside the order dated 22.7.2019 passed by the Additional Sessions Judge-05, (Central) Tis Hazari Courts, Delhi and upholding the judgment dated 9.3.2018 and order on sentence dated 19.3.2018 passed by the Metropolitan Magistrate.

2. Brief facts of the case are that the petitioner and the respondent were good friends and known to each other since a long time. The petitioner had borrowed a sum of Rs.1 lac for a period of three months from the respondent on 22.2.2013 and had also furnished a written acknowledgement in this regard along with a cheque bearing No.213314 dated 25.2.2015 for an amount of Rs.1 lac at the time of receiving the said amount. When the said cheque was presented by the

respondent in his bank, i.e. Yes Bank, Rajendra Place, Delhi for encashment, the same was returned vide returning memo dated 30.4.2015, with the remark "Account blocked". The respondent served a legal demand notice dated 18.5.2015 upon the petitioner, however, no payment was made, hence, a complaint under Section 138 of the Negotiable Instruments Act, 1881 ('NI Act') was filed. The Trial Court held the petitioner guilty for the offence punishable under Section 138 of the NI Act vide judgment dated 9.3.2018 and vide order on sentence dated 19.3.2018, he was sentenced to undergo simple imprisonment for one month. The petitioner was also directed to pay a sum of Rs.1.60 lacs within 30 days failing which he would have to undergo simple imprisonment for two months. Both the sentences were directed to run one after the another. The petitioner filed an appeal before the Sessions Court and the Sessions Court dismissed the same and upheld the judgment dated 9.3.2018 and order on sentence dated 19.3.2018 passed by the Trial Court. Hence, this revision petition.

3. Learned counsel for the petitioner submitted that the matter stands settled between the parties for a sum of Rs.1.40 lacs and out of which, the petitioner has already paid Rs.1 lac to the respondent vide a demand draft bearing No.294281.

4. Learned counsel for the petitioner also submitted that the petitioner has brought a demand draft bearing No.275500 dated 26.8.2019 for an amount of Rs.40,000/- and the same is handed over to the respondent towards the balance amount in terms of the settlement.

5. Respondent submitted that in view of the payment of the balance amount, he has no grievances against the petitioner and the matter may be compounded. Accordingly, in view of the compromise between the parties as well as payment of balance amount and no objection of the respondent, the offence is compounded and consequently, the judgment dated 9.3.2018 and order on sentence dated 19.3.2018 as well as the judgment of the Sessions Court dated 22.7.2019 are set aside and the petitioner is acquitted. Accordingly, the present petition filed by the petitioner against the aforesaid impugned judgments and order on sentence has become infructuous and the same is disposed of, as such. Pending applications are also disposed of.

CHANDER SHEKHAR, J

AUGUST 28, 2019/rk