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

+ **CRL.M.C. 149/2017 & CrI.M.A. 20397/2017 (Stay)**

DEEPTI MINOCHA

..... Petitioner

Through: Mr. Himanshu Gupta & Mr. N.S.
Arora, Advocates

Versus

GRACE DHILLON

..... Respondent

Through: Mr. Sudhansu Palo & Mr.
Surendra Kr. Roy, Advocates

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
09.04.2019

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In proceedings under Section 138 of Negotiable Instruments Act, 1881 respondent's application under Section 145(2) of NI Act stands dismissed by trial court vide order of 31st March, 2015, while relying upon a decision of coordinate Bench of this Court in '*Hardeep Bajaj Vs. ICICI Bank Ltd.* 2013(2) AD(Delhi) 471.

Revisional Court vide impugned order of 9th February, 2016 has set aside trial court's order and allowed respondent's application under Section 145(2) of NI Act while relying upon Supreme Court's decisions in '*Indian Bank Association & Ors. Vs. UOI & Ors.* (2014) 5 SCC 590 and '*Mandavi Cooperative Bank Limited Vs. Nimesh B. Thakore*, (2010) 3 SCC 83.

Learned counsel for petitioner submits that settlement was arrived at between the parties in January, 2012 and respondent had willfully not honoured it and after more than one year and ten months and has belatedly filed this application to prolong these proceedings. It is submitted that impugned order deserves to be set aside and trial court's order be restored.

Respondent's counsel supports the impugned order and submits that this petition deserves to be dismissed as respondent is not in a position to pay the settled amount.

Upon hearing and on perusal of impugned order as well as trial court's order and Supreme Court's decisions in *Indian Bank Association (Supra)* and *Mandavi Cooperative Bank Limited (Supra)*, I find that financial stringency is the reason put forth for not honouring the settlement and so the right of respondent under Section 145 (2) of NI Act cannot be taken away. However, for the delay caused, respondent can always be put to terms.

Accordingly, impugned order is modified to the extent of imposing costs of ₹20,000/- upon respondent, payable to petitioner within four weeks from today. Respondent's application is allowed, subject to payment of the aforesaid cost.

The petition and application are accordingly disposed of.

Dasti.

(SUNIL GAUR)
JUDGE

APRIL 09, 2019
p'ma

