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

+ **CRL.M.C. 4759/2017 & Crl.M.A. 18970/2017**

M/S. VISHWAKARMA PROJECTS (I) PVT LTD. & ANR.

..... Petitioners

Through: Mr. Anil Sharma, Advocate

Versus

STATE & ANR.

.....Respondents

Through: Mr. Izhar Ahmad, Additional
Public Prosecutor for respondent
No.1- State
Mr. Sudhir Kumar Sharma,
Advocate for respondent No.2

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER

25.03.2019

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In proceedings under Section 138 of *The Negotiable Instruments Act, 1881*, trial court vide impugned order of 19th September, 2017 has dismissed petitioner's application while observing that sending the cheque in question to FSL, would be a wasteful exercise. To assail the impugned order, petitioners' counsel relies upon Supreme Court's decision in *T.Nagappa Vs. Y.R. Muralidhar* (2008) 5 SSC 633 to submit that in a case of misuse of cheque, an opportunity ought to be granted to the accused to lead evidence, as accused has a right to fair trial.

Counsel for second respondent supports the impugned order and submits that the case is now at the stage of defence evidence and

petitioner is unnecessarily delaying the proceedings.

Upon hearing and on perusal of impugned order and decision cited, I find that the plea of issuance of blank cheque to third party in respect of a loan transaction cannot be accepted on the face of it. Petitioner has already led evidence before the trial court and so, petitioner cannot complain of infringement of his right to have fair trial.

Finding no infirmity in the impugned order, this petition and application are dismissed, while not commenting upon the merits of the case.

(SUNIL GAUR)
JUDGE

MARCH 25, 2019

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