

\$~15

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

+ CRL.M.C. 5358/2017 and Crl.M.As. 2230/2018, 20974/2017

SANGEETA GARG

..... Petitioner

Through: Mr. Shiv Charan Garg and Mr.
Imran Khan, Advocates

Versus

URMILA

..... Respondent

Through: Mr. Amit Sharma, Advocate

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER

%

13.02.2019

In proceedings under Section 138 of Negotiable Instruments Act, 1881 vide order of 14th January, 2016 cross-examination of the complainant was closed as many effective opportunities were granted to petitioner to cross examine the complainant but it has not been done. Aforesaid order takes note of the fact that previous costs of ₹13,000/- have not been paid by petitioner to the respondent. Review of order of 14th January, 2016 has been declined by the trial court vide order of 9th June, 2016. Petitioner had preferred a Revision Petition which was dismissed as time barred vide impugned order of 23rd October, 2017.

Learned counsel for petitioner submits that on 14th January, 2016 counsel was not accommodated by trial court even though he was busy in another Court and the previous date i.e. 14th November, 2015 there was court holiday and the matter was adjourned to 16th November, 2015. It is

submitted that due to heavy board of the Courts on 16th November, 2015 petitioner's counsel could not appear before the trial court for which cost of ₹5,000/- was imposed. So, it is submitted that impugned order ought to be set aside and petitioner be granted one effective opportunity to cross examine respondent-complainant.

Learned counsel for respondent-complainant supports the impugned order and submits that petitioner has been deliberately delaying the proceedings under Section 138 of Negotiable Instruments Act, 1881. However, it is admitted that previous costs of ₹13,000/- has been paid to the complainant.

Upon hearing and on perusal of impugned order, I find that for the delay occasioned, petitioner can be put to terms but the cross-examination of the complainant is essential for an effective decision.

Accordingly, impugned order is set aside subject to cost of ₹10,000/- to be paid by petitioner to respondent-complainant on the date fixed by trial court for the cross-examination of the complainant.

This petition and applications are accordingly disposed of.

(SUNIL GAUR)
JUDGE

FEBRUARY 13, 2019

p'ma