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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.M.C. 466/2019 & CRL.M.A. 2017/2019
MUKESH SINGH Petitioner

Through: Mr. Mayank Goel, Adv.

versus

STATE OF NCT OF DELHI Respondent
Through: Mr. Ashok Kr. Garg, APP for State
Counsel for R-2.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

% **06.02.2020**

In terms of proceedings dated 23.01.2020, the TCR having been requisitioned-has been received and perused.

Submissions have been made on behalf of either side qua the petition filed on behalf of the petitioner seeking that the DW1 & CW3 be allowed to be recalled for re-examination in the matter, placing reliance *inter alia* on bank statements placed as Annexure P6 to the present petition in relation to entries qua cheque bearing no.572437 for the sum of Rs.2 lakhs in the name of Haripur Paper, cheque bearing no.452581 for a sum of Rs.1 lakh in the name of Haripur Paper, cheque bearing no.452583 for a sum of Rs.1 lakh in the name of Haripur Paper submitting to the effect that the said amounts have already been paid to M/s Haripur Paper and that the respondent no.2 herein i.e. Madhura Paper Pvt. Ltd., the complainant of CC No.49313/2016 has sought to claim the amounts through the said complaint under Section 138 of the Negotiable Instruments Act, 1881 and despite the payments having already been made and despite there being no subsisting

liability of the petitioner in relation to the amounts qua the cheques in question, for which the complaint has been filed.

On behalf of the respondent no.2, learned counsel for the respondent no.2 has placed reliance on a ledger statement of Haripur Paper Company of one 'Paper House' to submit that all these cheques which have been issued by the petitioner no.1 have been paid towards the dues of that 'Paper House'.

Without any observations on the merits or demerits of the trial in progress, the complaint in the instant case having been filed by the respondent no.2, there being no averments in relation to any 'Paper House' in the complaint itself, in the interest of justice, it is considered appropriate to grant the prayer made by the petitioner seeking recalling of CW3 and DW1 examined before the learned trial Court despite submissions made on behalf of the respondent no.2 that the same would amount to a *de novo* trial, which cannot be accepted in view of the documents produced.

A submission is also made on behalf of the respondent no.2 that this would be against the principles of natural justice, which too is declined in as much as it is considered appropriate in the interest of natural justice to grant the prayer made by the petitioners with only one single opportunity being granted to the petitioner to re-examine these two witness i.e. CW3 and DW1 on a date to be fixed by the learned trial Court.

The petition is disposed of.

Copy of the order be given Dasti under the signatures of the Court Master, as prayed to either side.

ANU MALHOTRA, J

FEBRUARY 06, 2020/vm