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

+ CRL.REV.P. 272/2022, CRL.M.A. 8681/2022 (stay)

NAVENDU AGARWAL

..... Petitioner

Through: Mr.Kunal Malhotra, Adv.
(DHCLSC), Mr.Ravinder Gaur and
Mr.Lalit Chaudhary, Advocates

versus

STATE (NCT OF DELHI)

..... Respondent

Through: Mr.Amit Sahni, APP for the State.
SI Kunal Kumar, PS Sec.23, Dwarka

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Date of Decision: 18.07.2023

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

J U D G M E N T

DINESH KUMAR SHARMA, J. (Oral)

1. Present revision petition has been filed under Section 397 Cr.P.C. challenging the impugned order dated 10.01.2022 passed by learned ACMM, Dwarka Courts, South-West District, Delhi.
2. Briefly stated the facts of the case as per the impugned order are that the revisionist/petitioner was charge-sheeted for the commission of offence under section 380 of IPC in relation to a demand draft in the sum of Rs. 4,52,000/-, which was made in favour of the Superintendent MDM Hospital Jodhpur in connection with a tender for which the complainant/Jai Prakash had placed a bid. Further, the complainant did not qualify for the tender and the demand draft was returned to

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complainant/Jai Prakash who kept it in his drawer. It is further alleged that the petitioner stole the demand draft from complainant's drawer and deposited it in his account. The trial court observed that since the petitioner failed to return the cheque and had misappropriated the amount comprised in the demand draft, prima facie case for the commission of offence under section 406 of criminal breach of trust is made out against the petitioner.

3. Learned APP for the State has raised the preliminary objection that the petitioner should have challenged the impugned order before the learned Sessions Court before approaching this court.
4. Learned counsel for the petitioner submits that the revisional jurisdiction is a concurrent jurisdiction and therefore this court also has the power to examine the illegality, infirmity, and perversity in the order passed by learned ACMM.
5. There is no doubt that the revisional jurisdiction is a concurrent jurisdiction but it is also a settled proposition that if the jurisdiction lies with the learned Sessions Court, the propriety demands that the petitioner should file a revision petition first before the learned Sessions Court. Reliance is placed upon ***Shushil Kumar Singh v. State of UP***, 2023 SCCOnline ALL 105, ***Sirisha Dinavahi Bansal v. Rajiv Bansal*** CRL. M.C. 1554/2020 (DHC). In ***Gian Singh vs. State of Punjab and Another***, (2012) 10 SCC 303, the Hon'ble Supreme Court *inter-alia* held that:

“49. Section 482 of the Code, as its very language suggests, saves the inherent power of the High Court which it has by virtue of it being a superior court to prevent abuse of the process of any



court or otherwise to secure the ends of justice. It begins with the words, 'nothing in this Code' which means that the provision is an overriding provision. These words leave no manner of doubt that none of the provisions of the Code limits or restricts the inherent power. The guideline for exercise of such power is provided in Section 482 itself i.e., to prevent abuse of the process of any court or otherwise to secure the ends of justice. As has been repeatedly stated that Section 482 confers no new powers on High Court; it merely safeguards existing inherent powers possessed by High Court necessary to prevent abuse of the process of any Court or to secure the ends of justice. It is equally well settled that the power is not to be resorted to if there is specific provision in the Code for the redress of the grievance of an aggrieved party. It should be exercised very sparingly and it should not be exercised as against the express bar of law engrafted in any other provision of the Code."

6. Hence, the present petition impugning the order dated 10.01.2022 passed by learned ACMM, Dwarka Courts, South-West District, Delhi is dismissed with liberty to the petitioner to file the revision petition before the learned Sessions Court.
7. It is made clear that this court has not gone into the merits of the case and the petitioner is at liberty to raise all his contentions before the learned Sessions Court in accordance with law.
8. The petition stands disposed of.

DINESH KUMAR SHARMA, J

JULY 18, 2023

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