



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

Reserved on: July 11, 2023.
Pronounced on: July 18, 2023

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CRL.L.P. 439/2022 & CRL.M.A. 18079/2022

GOVIND RAM SINGHAL

..... Petitioner

Through: Mr. Pawan Kumar, Advocate

Versus

GOVT. NCT OF DELHI AND ANR.

..... Respondents

Through: Mr. Utkarsh, APP for the State

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

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J U D G M E N T

1. The present petition seeking leave to appeal arising out of the final judgment dated 30.06.2022 passed by the learned Metropolitan Magistrate (N.I. Act), Digital Court-06 (South District), Saket Courts, New Delhi in Complaint Case No.399/2021, has been filed by the petitioner/ complainant¹ seeking setting aside of the said judgement.

2. In a nutshell, the complaint was filed alleging that the respondent no.2/ accused² approached the petitioner asking for Rs.80,000/- (Rupees Eighty Thousand Only), which was given to respondent no.2 on the same date. The respondent no.2 then issued a cheque bearing no.697324 dated 24.11.2020 drawn on State Bank of India, Sangam Vihar, New Delhi-110062 in favour of the petitioner, however, upon presentation of the said cheque, the same was returned for the reason "*payment stopped by the drawer*" vide Return Memo dated 26.11.2020.

¹ herein referred as "**petitioner**"



3. Thereafter, though the petitioner sent a Legal Notice dated 14.12.2020, no payment was made within the stipulated 15 days by the respondent no.2. This led to the petitioner filing a complaint under *Section 138* of the Negotiable Instruments Act, 1881³ before the said learned Metropolitan Magistrate. The learned Metropolitan Magistrate dismissed the said complaint after recording the evidence by the parties and after hearing the final arguments, preliminarily holding that the said loan transaction was not reflected in the Income Tax Returns of the petitioner. Learned Metropolitan Magistrate further found that the respondent no.2 was able to rebut the presumption of *Section 118* read with *Section 139* of the NI Act and without the aid of the presumption thereunder, even though it was the duty of the petitioner to prove his case beyond reasonable doubt, he failed to do so.

4. Thus, finding it to be a fit case, the learned Metropolitan Magistrate extended the benefit of doubt to the respondent no.2 and passed the impugned order of acquittal in his favour.

5. The petitioner in the present petition has relatively sought to raise either the same contentions which have already been answered in detail by the Trial Court in the impugned order or has sought to raise those contentions belatedly before this Court. This Court is satisfied with the reasonings and findings rendered by the learned Metropolitan Magistrate and finds no ground to interfere with the same.

6. This Court, after hearing the learned counsel for the petitioner on merits and also after going through the documents on record, including the cross-examination of the witnesses DW-2, DW-3 and DW-4 produced by

² herein referred as the “respondent no.2”

³ herein referred as “NI Act”



the respondent no.2, finds that while the said witnesses were firm in their deposition, there were inherent contradictions in the case set up by the petitioner and his cross-examination.

7. In view thereof, the petitioner had failed to prove his case before the learned Metropolitan Magistrate and finding no merit in the arguments advanced by the learned counsel for the petitioner, this Court considers it appropriate to dismiss the present leave petition without interfering with the impugned order dated 30.06.2022 passed by the learned Metropolitan Magistrate.

8. Accordingly, the present petition is dismissed as meritless.

SAURABH BANERJEE, J.

JULY 18, 2023
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