

Decided on: 06.02.2024

Sunita Petitioner

Hastna Arora Respondent

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Present : Mr. Vikas P. Singh, Advocate
for the petitioner.

This order shall dispose of above-said two revision petitions as both of them have been filed impugning the order dated 20.10.2022 between the same parties. Brief facts of the case are taken from CRR No.1715 of 2023.

2.. The present petition has been filed under Section 401 read with Section 482 Cr.PC for setting aside the order dated 20.10.2022 whereby application for additional evidence under Section 391 Cr.PC has been dismissed.

3. Learned counsel for the petitioner *inter alia* contends that following the conviction of the petitioner under Section 138 of Negotiable Act vide judgment dated 08.01.2019 passed by the learned trial court, he preferred an appeal before the learned Appellate Court. It has been further submitted that for the just adjudication of her appeal, the petitioner sought to adduce additional evidence in the form of some documents and statements related to FIR No.328 dated 10.07.2019, which had been lodged at her instance as these documents and statements were most relevant to demonstrate that the cheques in question had not been issued to discharge of any legal liability but had instead been misused by the complainant. Consequently, the petitioner filed an application under Section 391 Cr.PC before the Appellate Court seeking permission to adduce this evidence, however, her application was erroneously dismissed vide impugned order Annexure P-3. In the circumstances, a prayer has been made by the learned counsel to allow the instant petition so that she could adduce these additional documents as they were not available to her during trial.

4. I have heard learned counsel and perused the material available on record.

5. A perusal of the material on record makes it evident that the complaint in question pertains to the year 2017 while the FIR and the documents intended by the petitioner to be adduced as evidence are from the year 2019, rendering them subsequent and thus, irrelevant. Furthermore, the applicant-revisionist is seeking to adduce evidence,

which is in the form of statements made before the police. It needs to be observed that these statements do not carry any substantive value much less would have any bearing to the complaint in question, which is under Section 138 of the Negotiable Instruments Act.

6. Admittedly, the appeal against the judgment of conviction was filed by the petitioner on 08.02.2019 whereas the application under Section 391 Cr.PC was moved more than three years, thereafter. Additionally, it also needs to be noted that the FIR, which was lodged at the instance of the applicant-revisionist, was found to be false leading to the initiation of proceedings under Section 182/187 Cr.PC against her. Thus, the application filed under Section 391 Cr.PC seems to be just another ploy to prolong the proceedings in the case at hand.

7. This Court does not find any infirmity or perversity in the impugned order passed by the Court below. Accordingly, the present petition being devoid of any merit stands dismissed.

8. Since the main petition stands dismissed, therefore, no further order in the application for condonation of delay is required to be passed and the same stands disposed of.

06.02.2024
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(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable :	Yes/No