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* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 15.02.2024

+ CRL.M.C. 654/2024, CRL.M.C. 655/2024, CRL.M.C. 656/2024,
CRL.M.C. 657/2024, CRL.M.C. 658/2024, CRL.M.C. 659/2024,
CRL.M.C. 660/2024, CRL.M.C. 661/2024, CRL.M.C. 662/2024 and
CRL.M.C. 663/2024

IN THE MATTER OF

M/S SAMRAT HEAVENS INFRA
DEVELOPERS PVT. LTD. & ORS.

..... Petitioners

Through: Mr.Pramod Kr.Dubey, Sr.Advocate
with Mr.Siddharth Narang,
Mr.Chaitanya Singh, Mr.Shashank
Dewan, Ms.Amrita Vats and
Mr.Vaibhav Kapur, Advocates.

versus

SATINDER KUMAR GUPTA

..... Respondent

Through: Mr.Deepank Yadav, Advocate

CORAM:

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

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J U D G M E N T

ANOOP KUMAR MENDIRATTA, J (ORAL)

CRL.M.A. 2711/2024 in CRL.M.C. 654/2024,
CRL.M.A. 2713/2024 in CRL.M.C. 655/2024,
CRL.M.A. 2715/2024 in CRL.M.C. 656/2024,
CRL.M.A. 2717/2024 in CRL.M.C. 657/2024,
CRL.M.A. 2719/2024 in CRL.M.C. 658/2024,
CRL.M.A. 2721/2024 in CRL.M.C. 659/2024,
CRL.M.A. 2723/2024 in CRL.M.C. 660/2024,
CRL.M.A. 2725/2024 in CRL.M.C. 661/2024,
CRL.M.A. 2727/2024 in CRL.M.C. 662/2024,
CRL.M.A. 2729/2024 in CRL.M.C. 663/2024



Exemption allowed, subject to just exceptions.

Applications stand disposed of.

CRL.M.C. 654/2024 & CRL.M.A. 2710/2024,
CRL.M.C. 655/2024 & CRL.M.A. 2712/2024,
CRL.M.C. 656/2024 & CRL.M.A. 2714/2024,
CRL.M.C. 657/2024 & CRL.M.A. 2716/2024,
CRL.M.C. 658/2024 & CRL.M.A. 2718/2024,
CRL.M.C. 659/2024 & CRL.M.A. 2720/2024,
CRL.M.C. 660/2024 & CRL.M.A. 2722/2024,
CRL.M.C. 661/2024 & CRL.M.A. 2724/2024,
CRL.M.C. 662/2024 & CRL.M.A. 2726/2024,
CRL.M.C. 663/2024 & CRL.M.A. 2728/2024

1. Ten separate petitions under Section 482 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') have been preferred on behalf of the petitioners challenging the order dated 23.08.2023 passed by learned ASJ, North-West, Rohini Courts, Delhi and order dated 28.04.2023 passed by learned MM (NI Act) (North-West), Rohini Courts, Delhi.
2. Issue notice. Learned counsel for the respondent appears on advance notice and accepts notice.
3. The grievance of the petitioners is that the right of cross-examination of the petitioner, who is an accused in the proceedings under Section 138 of N.I. Act was closed in the concerned complaint cases preferred on behalf of the respondent.
4. In brief, as per the case of the petitioners, separate complaint cases arising out of the same transaction between the parties were filed within a span of twelve months. The aforesaid cases pending before different districts were finally transferred vide order dated 04.03.2023 by this Court to District (North-West).



An application preferred by the petitioners under Sections 220 read with Section 223 Cr.P.C. seeking clubbing of all the aforesaid cases arising out of the same transaction, was dismissed by learned MM vide order dated 11.01.2023, against which **Criminal Revision Petition No.211/2023** was preferred. In the meanwhile, during the pendency of aforesaid Revision Petition, the learned MM closed the right of cross-examination of the petitioners in all the 10 complaint cases vide order dated 28.04.2023. A **Criminal Revision Petition No.327/2023** was further preferred on behalf of the petitioners, challenging the closure of right of cross-examination by the learned MM. Both the Criminal Revision Petitions were dismissed vide separate orders dated 23.08.2023 by the learned ASJ. Also, a cost of Rs.1,00,000/- was imposed in Criminal Revision Petition No.327/2023, whereby the right of cross-examination was closed by the learned MM.

5. Learned counsel for the petitioner submits that since the right of clubbing of all the cases had an impact on the conduct of the complaint cases which arise out of the same transaction, the order for closure of right of cross-examination should not have been passed by learned MM till disposal of Revision Petition No.211/2023, which was preferred against order dated 11.01.2023 dismissing the application for clubbing of cases. It is further submitted that separate order upholding the closure of right of cross-examination with cost of Rs.1,00,000/- is also unjustified.

6. On the other hand, petitions have been vehemently opposed by learned counsel for the respondent and the contention that the cases arise out of the same transaction, is disputed. It is pointed out that an earlier CRL.M.C.7602/2022 preferred by the petitioner was withdrawn and the present petitions are not maintainable.



7. On the face of record, CRL.M.C.7602/2022 earlier preferred by the petitioner does not bar the present petitions, since the aforesaid CRL.M.C. had been withdrawn by the petitioners with liberty to file afresh and it was submitted that there was an error in drafting the petition as an order dismissing the application under Sections 220 & 223 of Cr.P.C. had not been challenged in the said petition.

8. It appears that learned MM closed the right of cross-examination in view of observations in order dated 20.01.2022 passed by learned Additional Sessions Judge in Revision Petition No.13/2022, whereby the cross-examination of the complainant was directed to be conducted in the first single opportunity granted by the concerned learned Trial Court without seeking adjournment on any ground whatsoever including the ground that a new counsel is engaged or any other ground of transfer of any matter, etc. to the same Court.

However, it may be observed that situation arising out of an application preferred on behalf of the petitioner for clubbing of the aforesaid ten complaint cases was not contemplated while passing order dated 20.01.2022 in Revision Petition No.13/2022.

Considering the facts and circumstances, this Court is of the opinion that the right of cross-examination being an important right to defend the proceedings should not be curtailed. In the interest of justice, petitioner is accorded one more opportunity to cross-examine the witnesses, irrespective of the proceedings preferred by the petitioner for clubbing of cases. The cross-examination shall be conducted on the date already fixed before the learned Trial Court i.e. 13.03.2024 until and unless the same is deferred by the learned MM for any specific reasons to be recorded.



Petitions are accordingly allowed, subject to payment of earlier cost of Rs.10,000/- and further composite cost of Rs.50,000/-. The cost of Rs.1,00,000/- imposed vide order dated 23.08.2023 by the learned Revisional Court is set aside. Pending applications, if any, also stand disposed of.

A copy of this judgment be forwarded to the learned Trial Court for information and compliance.

A copy of this judgment be placed in connected petitions.

(ANOOP KUMAR MENDIRATTA)
JUDGE

FEBRUARY 15, 2024/v