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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 1523/2023**

MR. JITENDER SHARMA Petitioner
Through: **Mr. M. Hasibuddin, Advocate.**

versus

MR. VIJAY KUMAR JAGGI Respondent
Through: **Mr. Radhesh Makrandi, Mr. Sundeep
Goel, Mr. Kumar Dron, Advocates.**

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

% **ORDER**
06.05.2024

CRL.M.A. 13793/2024

Petitioner seeks early disposal of the Crl M.A. 5804/2023. At joint request of learned counsel for the parties and with their consent, the petition itself is taken up for disposal.

CRL.M.C. 1523/2023 & Crl M.A. 5804/2023

1. By way of present petition filed under Section 482 Cr.P.C., the petitioner seeks to assail the order dated 17.01.2023 passed by learned Presiding Officer, Special Court (NI Act), South West District, Dwarka Courts, Delhi in Ct. Cases No. 4991426/2016 titled 'Vijay Kr. Jaggi vs Jitendra Sharma'.
2. The present case arises out of proceedings instituted by the respondent against the petitioner under Section 138 & 142 of the Negotiable Instruments Act ('NI Act'). In the complaint, it has been alleged that the respondent agreed to purchase certain land from the petitioner and paid certain sum towards the same. However, upon petitioner's failure to take



appropriate steps, the respondent sought refund of the money paid, in pursuance of which a cheque was issued. Upon dishonour of the said cheque, the subject criminal complaint came to be filed.

3. During the course of proceedings before the Presiding Officer, the petitioner moved two applications to place on record expert opinion dated 09.11.2022 as well as for issuance of summons to one *Poonam Saini*, the expert witness to prove the said report/opinion. Vide the impugned order, the Presiding Officer disallowed both the said applications.

4. Learned counsel for the petitioner states that there was tampering/changes made to the cheque inasmuch as the petitioner only owed Rs.50,000/- and that the number '12' was written before the said amount by the respondent, which is also visible from the difference in ink between these values/numbers. He argues that the said expert opinion is necessary in order to bring on record the truth.

Learned counsel for the respondent, on the other hand, has opposed the present petition. He states that defence evidence was closed way back on 12.10.2021 and the present applications have been filed only with the intent to delay the trial, which is currently at the stage of final arguments.

5. I have learned counsel for the parties and have also perused the material placed on record.

6. In the present case, the petitioner has raised a contention that he only owed Rs.50,000/- and that the respondent has subsequently added the figure/number '12' on the cheque. Without commenting on the merits of the said contention, considering the fact that a question has been raised upon the very amount payable under the cheque, this Court is of the considered opinion that in order to bring out the truth of the matter, it is apposite if the



petitioner is allowed to bring on record the said evidence/witness.

7. Considering the aforesaid as well as the fact that only one witness, that too an expert witness, is sought to be summoned to the limited extent of proving the expert opinion/report, the petition is allowed subject to cost of Rs.10,000/- to be deposited by the petitioner with the Delhi State Legal Services Authority (Account No.18580110053263, UCO Bank, Branch Rouse Avenue, IFSC: UCBA0003364) within a period of two weeks from today. The amount so deposited shall be utilized by the Delhi State Legal Services Authority for providing counselling/psychological support to POCSO victims requiring such assistance.

8. The petition is disposed of in above terms along with pending application.

9. The already scheduled date of 04.09.2024 stands cancelled.

MANOJ KUMAR OHRI, J

MAY 6, 2024/rd