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

+ CRL.M.C. 1393/2024

MRS PURNIMA JAIN

..... Petitioner

Through: Mr. Idresh Ahmad, Adv.

versus

STATE GOVT. OF NCT OF
DELHI & ANR.

..... Respondents

Through: Mr. Pradeep Gahalot, APP
for the State
Mr. Deepak Kohli, Adv.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

21.02.2024

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CRL.M.A. 5522/2024 (for exemption)

1. Exemptions allowed, subject to all just exceptions.
2. The application stands disposed of.

CRL.M.C. 1393/2024. CRL.M.A. 5521/2024 (for condonation of delay) & CRL.M.A. 5523/2024 (for stay)

3. The present petition is filed under Section 482 of the Code of Criminal Procedure, 1973 ('CrPC') challenging the order dated 09.08.2023, passed by the learned Trial Court in Complaint Case No. 16410/2016 titled as *India Trade Link Pvt. Ltd. v. Purnima Jain* (hereafter '**the impugned order**').
4. The learned Trial Court, by the impugned order, has dismissed the application filed by the petitioner under Section 311 of the CrPC. The petitioner, by the said application, had sought an opportunity for verification of the signature of drawer on the cheques in question through a handwriting expert for the purpose of evidence.
5. The learned Trial Court noted that the petitioner had on an



earlier occasion entered into a settlement with the complainant on 15.01.2018 through mediation and had agreed to pay a sum of ₹18,00,000/- in seven instalments. After paying the amount of ₹2,50,000/- and, thereafter, a sum of ₹1,25,000/-, the petitioner failed to honour the terms of the settlement.

6. The learned Trial Court also noted that the complaint is pending since the year 2016 and a notice under Section 251 of the CrPC was framed on 06.10.2016. The petitioner/ accused, at that stage, admitted the liability towards the complainant, and also admitted that the dishonoured cheques in question bear her signatures.

7. Section 311 of the CrPC reads as under:

“311. Power to summon material witness, or examine person present.

Any Court may, at any stage of any inquiry, trial or other proceeding under this Code, summon any person as a witness, or examine any person in attendance, though not summoned as a witness, or recall and re-examine any person already examined; and the Court shall summon and examine or recall and re-examine any such person if his evidence appears to it to be essential to the just decision of the case.”

8. It is not in doubt that the learned Trial Court has power under Section 311 of the CrPC to summon witness and call for evidence at any stage if it is felt that the same is required for a just decision of the case. The power, however, is not to be exercised in routine manner.

9. In the present case, it is not in dispute that at the time of framing of notice under Section 251 of the CrPC, the petitioner had categorically admitted that the cheques in question bear her signatures.

10. However, now when the matter is at the stage of final arguments, the contention is raised that the petitioner, at that time, was suffering from cataract and could not see the signatures



properly.

11. The learned Trial Court in the impugned order has categorically dealt with the said contention and noted that the petitioner had undergone Cataract surgery on 12.04.2017 and 26.04.2017 respectively, and thereafter the petitioner also filed a revision petition before the learned Sessions Court where the mediation settlement dated 15.01.2018 was arrived between the petitioner and Respondent No.2.

12. Therefore, this argument that the petitioner was suffering from 'Cataract' which is why she was unable to identify her signatures on the cheques in question, at this stage, does not appear to be *bona fide*. It is apparent that the application is filed for the purpose of delaying the proceedings.

13. It is also not disputed that the petitioner, of her own will, had entered into a settlement and had agreed to pay the disputed amount.

14. The Hon'ble Supreme Court in ***RE: Expeditious Trial of Cases Under Section 138 of N.I. Act: 2021*** SCC OnLine SC **325**, noting the huge pendency of complaints under Section 138 of the NI Act and their adverse effect in disposal of other criminal cases, directed the High Courts to issue practice directions to the Magistrate. It was noted that Section 143 of the Act was introduced as step in aid for quick disposal of the complaints under Section 138 of the N. I. Act. It was held that it is sufficient for the Magistrate to record the substance of the evidence and deliver a judgment containing a brief statement of reasons for his findings and the Magistrate must give reasons for converting the trial from summary trial to summons trial.

15. In view of the above, this Court finds no infirmity with the impugned order passed by the learned Trial Court and the present



petition is, therefore, dismissed.

AMIT MAHAJAN, J

FEBRUARY 21, 2024

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