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

+ CRL.M.C. 1807/2023

SEEMA ARORA

.....Petitioner

Through: Mr.Anupam Kumar Mishra, Advocate

versus

ANEES AHMED

.....Respondent

Through: Mr.Ashwani Kumar, Advocate

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

% **29.08.2024**

1. By way of present petition, the petitioner is aggrieved by the order dated 01.02.2023 vide which the revision preferred by the respondent was allowed and the summoning order was set aside.
2. Pertinently, the petitioner is the complainant, who had initially filed an application under Section 156(3) as well as preferred a complaint under Section 200 Cr.P.C. in which he had alleged that the respondent was guilty of the offence of cheating and criminal breach of trust. While the application preferred under Section 156(3) was dismissed, the complaint under Section 200 Cr.P.C was proceeded with. The Court of learned Judicial Magistrate, while taking note of the allegations, directed summoning of the respondent vide order dated 12.03.2021. The aforesaid order came to be assailed before the Sessions Court by way of revision which while allowing the petition set aside the summoning order.



A reading of the paper book would show that the parties had initially entered into a 'teaming agreement' on 18.03.2014 under which the petitioner was to provide liasoning services to the respondent. The petitioner has claimed breach of the understanding although there is some dispute as to whether the teaming agreement was relied upon or not. In the complaint, the petitioner had claimed entitlement to 20% of the contract amount that was awarded to the respondent.

3. Be that as it may, the impugned order came to be passed observing that the disputes were civil in nature as well as there was no inducement on the part of the respondent as part payment of Rs.5,00,000/- was made by him to the petitioner which indicates that there was no intention to cheat the petitioner since beginning on behalf of the respondent.

4. During the course of submissions, learned counsels for both the parties have denied either paying or receiving any sum of Rs.5,00,000/- as mentioned in the impugned order. It appears that the part payment of Rs.5,00,000/- weighed with the revisional court, while passing the impugned order. Since the factum of Rs.5,00,000/- having either being paid or received is denied by both the parties, it is evident that a factual error has crept in the impugned order.

5. Keeping in view the aforesaid, it is deemed apposite that the matter be considered afresh by the revisional court. Accordingly, the impugned order is set aside and the matter is remanded back.

6. Needless to state that this Court has not expressed any opinion on the merits of the contentions of either of parties which are left open to be urged before the revisional court.



7. With the convenience of the parties the matter is now directed to be listed before the revisional court on 18.09.2024.

8. Let a copy of this order be communicated to the concerned court for information.

MANOJ KUMAR OHRI, J

AUGUST 29, 2024

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