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

+ **CRL.M.C. 1243/2022 & CRL.M.A. 5419/2022**

SANJAY KUMAR

.....Petitioner

Through: Mr. Chandan Bhatia, Mr. Sachin Kumar and Mohd. Talib Chaoudhary, Advocates.

versus

STATE & ANR.

.....Respondents

Through: Mr. Shoaib Haider, APP for the State
Mr. Amit Chadha, Mr. Kamal Bahl,
Mr. Atin Chadha, Ms. Minisha Chadha, Ms. Aeshana Singh, Mr. Harjas Singh, Advocates for R-2.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

14.08.2024

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1. The Petitioner has approached this Court challenging Order dated 31.01.2018 and 11.03.2020 passed by the learned Metropolitan Magistrate in Ct. Case 4994781/2016.
2. The proceedings emanate out of an offence under Section 138 of the Negotiable Instruments Act on the ground that cheque issued by the Petitioner has been dishonoured with remarks "payment stopped by drawer".
3. Vide Order dated 31.01.2018, the right of the Petitioner to cross-examine AR of the Complainant stood closed because of the fact that the AR of the Complainant had not been examined by the Petitioner due to repeated opportunities. Vide Order dated 11.03.2020, the right of the Petitioner to lead defence evidence (DE) also stood closed.



4. Learned Counsel for the Petitioner states that the Petitioner/accused was in custody and therefore was not in a position to give proper instructions to his Counsel to examine the AR of the Complainant or get himself examined as defence evidence. Though the record indicates that a number of opportunities have been given but they have not been availed of by the Petitioner.

5. In view of the fact that the Petitioner was in custody himself, this Court is inclined to grant one final opportunity and permit the Petitioner to examine the AR of the Complainant on one day and permit defence examination to be led on the other day, so that the examination of the AR and the defence evidence, both be completed within one date. This, of course, is subject to the payment of Rs.5,000/- costs by the Petitioner to be deposited with the Registry of this Court.

6. It is made clear that adjournments would not be granted on the request of the Petitioner.

7. It is stated that the next date is fixed on 05.09.2024. The AR of the Complainant company is requested to be present on that day to present himself for to be cross-examined. A date not exceeding 15 days be given for cross-examination of the defence. This is being made in view of the fact that the cheque is of the year 2016 and eight years have passed and the that the trial has been delayed considerably.

8. With these observations, the petition is disposed of along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

AUGUST 14, 2024

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