



2024:DHC:4093



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

Date of decision: 16.05.2024

(13)+ CRL.M.C. 1548/2022 & CRL.M.A. 6673/2022

M/S GANGOTRI QUALITY SEEDS P. LTD. & ORS.

..... Petitioner

Through: Mr.Harsh Sharma, Adv.

versus

STATE (NCT OF DELHI) & ANR.

..... Respondents

Through: Mr.Aman Usman, APP.

Mr.Rajiv Bajaj, Adv. for R-2
along with respondent no.2
present in person.

(14)+ CRL.M.C. 1549/2022 & CRL.M.A. 6675/2022

MRS. DEEPA TANEJA

..... Petitioner

Through: Mr.Harsh Sharma, Adv.

versus

STATE (NCT OF DELHI) & ANR.

..... Respondents

Through: Mr.Aman Usman, APP.

Mr.Rajiv Bajaj, Adv. for R-.2
along with respondent no.2
present in person.

(15)+ CRL.M.C. 1550/2022 & CRL.M.A. 6677/2022

M/S GANGOTRI QUALITY SEEDS P. LTD & ORS.

..... Petitioner

Through: Mr.Harsh Sharma, Adv.

versus

STATE (NCT OF DELHI) & ANR.

..... Respondents

Through: Mr.Aman Usman, APP.

Mr.Rajiv Bajaj, Adv. for R-.2
along with respondent no.2
present in person.



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(16)+ CRL.M.C. 1551/2022 & CRL.M.A. 6679/2022

MR. SIDDHARTH TANEJA

..... Petitioner

Through: Mr.Harsh Sharma, Adv.

versus

STATE (NCT OF DELHI) & ANR.

..... Respondents

Through: Mr.Aman Usman, APP.

Mr.Rajiv Bajaj, Adv. for R-.2
along with respondent no.2
present in person.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

NAVIN CHAWLA, J. (ORAL)

1. These petitions have been filed under Section 482 of the Code of Criminal Procedure, 1973 (in short, 'Cr.P.C.') challenging the Orders dated 15.10.2019, 03.03.2020, and 03.09.2020 passed by the learned Metropolitan Magistrate, North-West District, Rohini Courts, Delhi (hereinafter referred to as the 'Trial Court') in the Complaint Cases, being CC No.14334/2018 titled *Pramod Lohiya v. M/s Gangotri Quality Seeds Pvt. Ltd. & Ors.* (in CrI.M.C.1548/2022); CC No.14337/2018 titled *Neetu Lohiya v. Deepa Taneja* (in CrI.M.C.1549/2022); CC No.14336/2018 titled *Neetu Lohiya v. M/s Gangotri Quality Seeds P. Ltd. & Ors.* (in CrI.M.C.1550/2022); and CC No.14338/2018 titled *Neetu Lohiya v. Siddharth Taneja* (in CrI.M.C.1551/2022) (hereinafter collectively referred to as the 'Complaint Cases'); and the Order dated 25.10.2021 passed by the learned Principal District and Sessions Judge, North-West District, Rohini



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Courts, Delhi (hereinafter referred to as the 'PD&SJ') in the Revision Petitions, being CR No. 16/2021, 17/2021, 18/2021 and 19/2021 (hereinafter collectively referred to as the 'Revision Petitions') filed by the respective petitioners herein, dismissing the Revision Petitions.

2. Brief facts leading up to the filing of the present petitions are that the respondent no.2 in the respective petitions, filed the above-mentioned Complaints against the petitioners under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter referred to as the 'NI Act'). In the said complaints, notice was framed against the petitioner *vide* Order dated 03.06.2019 by the learned Trial Court. Thereafter, time was granted to the petitioners to move an application under Section 145(2) of the NI Act.

3. On 15.10.2019, the petitioner sought further time to move an application under Section 145(2) of the NI Act, however, the learned Trial Court observing that sufficient time had been granted to move such an application, refused to grant further time to the petitioner to move the said application.

4. The petitioners, instead of challenging the said Order, filed an application under Section 311 of the Cr.P.C., praying for recalling the complainant/witness. The said application was dismissed by the learned Trial Court *vide* Order dated 03.03.2020.

5. The petitioners, again, instead of challenging the said Order, moved a fresh application under Section 145(2) of the NI



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Act, which came to be dismissed by the learned Trial Court vide its Order dated 03.09.2020.

6. It is only thereafter that the petitioners filed the above-mentioned Revision Petitions, challenging the Order dated 03.09.2020 of the learned Trial Court.

7. The learned counsel for the petitioners submits that the petitioners had failed to move an application under Section 145(2) of the NI Act, within the time granted by the learned Trial Court, for reasons beyond their control. He submits that, at least, one further opportunity should have been granted by the learned Trial Court for filing such an application as the petitioners would be gravely prejudiced in their defence in the Complaint Cases. He submits that as far as the subsequent proceedings of filing an application under Section 311 of the Cr.P.C. and Section 145(2) of the NI Act are concerned, the same were based on the advice received by them by the then counsel. He submits that the petitioners should not be prejudiced for the incorrect advice received by them and for the fault of the counsel engaged by them.

8. On the other hand, the learned counsel for the respondent no.2 submits that the conduct of the petitioners in the proceedings in the Complaint Cases itself would show that the petitioners have acted with a *mala fide* intent of only delaying the adjudication of the Complaint Cases. He submits that, to begin with, the petitioners did not file their application under Section 145(2) of the NI Act when the notice was framed. In



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spite of the default, the learned Trial Court granted them further time to move such an application. The application was still not moved by the petitioners. Faced with this conduct, further opportunity to file an application had been declined by the learned Trial Court *vide* Order dated 15.10.2019. The petitioners, instead of challenging the said Order, filed an application under Section 311 of the Cr.P.C., which was not maintainable on the face of it. He submits that the said application was, therefore, rightly dismissed by the learned Trial Court *vide* order dated 03.03.2020. Again, instead of challenging the said Order, the petitioners then filed another application under Section 145(2) of the NI Act. He submits that the said application was also rightly dismissed by the learned Trial Court *vide* Order dated 03.09.2020. He submits that even present proceedings have been filed after a delay of more than six months inasmuch as, the Impugned Order passed by the learned PD&SJ was on 25.10.2021, while the present petitions have been filed only on or around the month of April, 2022. The conduct of the petitioners during the present proceedings has also been dilatory.

9. I have considered the submissions made by the learned counsels for the parties.

10. While there is absolutely no doubt that the petitioners by filing repeated applications, which otherwise were not maintainable, delayed the adjudication of the complaint cases filed by the respective respondent no.2, however, at the same



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time, the learned Trial Court had erred in not granting further time to the petitioners to file the application under Section 145(2) of the NI Act when it was initially prayed for vide the Order dated 15.10.2019. In my view, in the facts of the case, one further opportunity could have been granted by the learned Trial Court.

11. In order to achieve a balance, the learned counsel for the petitioners submits that a cost of Rs.1,20,000/- will be paid to the respondent no.2/complainant, collectively, on or before the next date of hearing before the learned Trial Court post this judgment. He further submits that if the respondent no.2 in the present petitions is present before the learned Trial Court on the said date, then the petitioners shall cross-examine the complainant and other witnesses without seeking any adjournment.

12. Binding the petitioners to the undertaking given hereinabove, the Impugned Orders are set aside. It is directed that in case the respective respondent no.2 are available before the learned Trial Court on the next date of hearing fixed before it, liberty to cross-examine the witness shall be granted to the petitioners, however, no adjournment for this shall be granted to the petitioners. If for any reason attributable to the petitioners, the petitioners do not cross-examine the respective respondent no.2 on the said date, the opportunity to cross-examine the respective respondent no.2 by the petitioners shall stand closed.



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13. It is further directed that the learned Trial Court should refuse any unwarranted request for adjournment henceforth from the petitioners and try to adjudicate on the complaint cases as expeditiously as possible and preferably within a period of six months post the first listing of the complaint cases post this judgment.

14. The petitions are disposed of in the above terms. The pending applications are also disposed of being rendered infructuous.

NAVIN CHAWLA, J

MAY 16, 2024/rv/AS

Click here to check corrigendum, if any