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

+ **CRL.M.C. 3624/2024**

TARUN GAUTAM

..... Petitioner

Through: Mr. T.P.S. Kang and Mr. Sameer
Kaushik, Advocates.

versus

PUNEET KUMAR AGGARWAL

..... Respondent

Through: None.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

% **07.05.2024**

CRL.M.A. 13898/2024 (Exemption)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

CRL.M.C. 3624/2024 & CRL.M.A. 13897/2024 (stay)

3. This petition has been filed on behalf of the Petitioner under Section 482 Cr.P.C. seeking quashing of the order dated 20.04.2024 passed by learned MM (NI Act)-07 in CT Case No. 468116/2016 titled '*Puneet Kr. Aggarwal v. Tarun Gautam*'.
4. By the impugned order dated 20.04.2024, learned Trial Court has dismissed the application filed by the Petitioner herein who is the accused before the Trial Court for recalling the Complainant Puneet Kumar Aggarwal and Arun Kumar Das for cross-examination in terms of Section 145(2) of Negotiable Instruments Act, 1881 and Section 217 Cr.P.C. on the ground that the predecessor Court vide order dated 22.09.2011 had framed notice under Section 251 Cr.P.C., wherein the name of the Complainant was mentioned as Arun Kumar Das and this error misled the Petitioner and occasioned failure of justice as he was made to believe that the Complainant



was Puneet Kumar Aggarwal. Complainant had argued that this was only a typographical error and could be corrected by the Court under Section 362 Cr.P.C. and no failure of justice was occasioned as throughout Petitioner was completely aware of who the Complainant was.

5. The Trial Court dismissed the application by a detailed and reasoned order. It was observed that when the notice was framed on 29.04.2011 against accused Tarun Gautam name of the Complainant was mentioned as Arun Kumar Das but when this was read out to the Petitioner he never objected to the same. Even later when the Complainant was cross-examined under Section 145(2) of NI Act on 13.02.2013, there was not even a suggestion that the Complainant was Arun Kumar Das. This fact was also not brought forth in the application under Section 145(2) of NI Act filed by the Petitioner or in the statement under Section 313 Cr.P.C. or his testimony under Section 315 Cr.P.C. as DW-1. There was nothing on record, according to the Trial Court, which indicated that the Petitioner was misled in any manner and at best the name of Arun Kumar Das in place of the Complainant Puneet Kumar Aggarwal was a clerical error, which can be corrected under Section 362 Cr.P.C. Noting that the case was pending since 2009 when cognizance was taken and had been delayed for one reason or the other, the Trial Court observed that this was another delay tactic and dismissed the application with Costs of Rs.1,00,000/-.

6. Heard counsel for the Petitioner.

7. There is no doubt that when the notice was framed under Section 251 Cr.P.C. on 24.09.2011 the name of the Complainant was mentioned as Arun Kumar Das. However, series of orders and documents placed on record with this petition clearly reflect that at no other place the name of Arun Das is



shown as the Complainant. Petitioner was throughout conscious and aware that the Complainant was Puneet Kumar Aggarwal and illustratively this is clear from his own application under Section 311 Cr.P.C. for recall of the Complainant after the examination of the Defence Witness. The cause title of the application including the other paragraphs in the body of the application clearly refer to Puneet Kumar Aggarwal as the Complainant. In these circumstances, it is rightly noted by the Trial Court that at best reflection of the name of Arun Kumar Das in the notice framed under Section 251 Cr.P.C. way back on 24.09.2011 was at best a typographical error and there is no material on record which even remotely indicates that Petitioner as an accused was prejudiced or misled.

8. However, considering that a typographical error has occurred in the notice dated 24.09.2011, the same is corrected and the name of the Complainant would read as Puneet Kumar Aggarwal instead of Arun Kumar Das.

9. At this stage, learned counsel for the Petitioner prays that costs be reduced and Petitioner is willing to pay Rs.50,000/- in favour of Bar Council of Delhi, Indigent and Disabled Lawyers Account, Siri Fort Branch in A/C No. 010104000183451, within 10 days from today.

10. Petition is, accordingly, disposed of with the aforesaid modification in the notice under Section 251 Cr.P.C. and in the quantum of cost imposed on the Petitioner. Petitioner shall pay a sum of Rs.50,000/- as undertaken within 10 days from today.

11. Pending application is disposed of.

JYOTI SINGH, J

MAY 07, 2024/shivam/bsr