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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.M.C. 4936/2024 & CRL.M.A. 18881/2024, CRL.M.A.
18882/2024

MS RAJNI VERMA

..... Petitioner

Through: Mr. Bishwajit Dubey, Legal Aid
Counsel/DHCLSC with Ms. Ananya
Sikri, Advocate.

versus

MR DHARMENDER KUMAR GUPTA

..... Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

02.07.2024

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By way of the present petition filed under section 482 read with section 483 of the Code of Criminal Procedure 1973 ('Cr.PC'), the petitioner seeks setting-aside of orders dated 10.04.2024 and 30.04.2024 made by the learned Principal District & Sessions Judge (North-West), Rohini Courts, Delhi ('Sessions Judge') in Criminal Revision No. 26/2024, whereby the learned Sessions Judge has imposed costs of Rs. 10,000/- while granting to the petitioner (accused in Complaint Case No. 162/2017 under section 138 of the Negotiable Instruments Act, 1881), liberty to lead defence evidence.

2. Learned counsel appearing for the petitioner submits, that as recorded in order dated 30.04.2024, the reason why the petitioner has been unable to pay the costs imposed *vide* order dated 10.04.2024 is that her pension account at the Punjab & Sind Bank, Inderlok Branch, Delhi has been frozen and therefore she does not have access to any funds. Counsel also cites the petitioner's age and health condition as



the reasons for seeking waiver of the costs imposed by the the learned Sessions Judge.

3. A perusal of the record shows that the petitioner is accused in a matter under section 138 of the Negotiable Instruments Act, 1881 ('NI Act'), concerning dishonour of a cheque in the sum of Rs. 4.5 lacs; and that, as recorded in the impugned orders, she was afforded an opportunity to lead defence evidence in Complaint Case No. 162/2017 on 20.09.2022, but has omitted to do so despite about 06 opportunities having been granted her for that purpose. The conduct of the petitioner in this regard has been recorded by the learned Sessions Judge in order dated 30.04.2024.
4. The record further shows, that the petitioner did not avail the repeated opportunities granted to her to lead defence evidence; and in fact, she failed to appear before the learned Metropolitan Magistrate, Rohini Courts, New Delhi, which lead to issuance of non-bailable warrants against her, which warrants were subsequently cancelled by way of an abundant indulgence, in order to provide to the petitioner yet another opportunity to lead evidence in her defence.
5. In order dated 10.04.2024, the learned Sessions Judge has recorded as follows :

“Ld. counsel for the respondent opposed the application submitting that keeping in view the conduct of the accused, which is reflecting from the order sheet itself, she is not entitled to any relief. Trial court has already given her enough opportunities to lead DE. It was only after six dates that court has closed the DE and prayed that the opportunity be closed. Even the revision petition has been filed in 2024 though the order was of 03.06.2023 i.e. after 8 months.

I have heard the arguments and perused the record.



Keeping in view all these fact, still in order to provide a fair opportunity to the accused/revisionist, one opportunity is granted to her to lead the evidence on 25.04.2024 subject to payment of costs of Rs.10,000/- to be paid to the complainant/ respondent. The payment of costs will be the condition precedent to lead evidence.”

(emphasis supplied)

6. As per the record, thereafter, the learned Sessions Judge granted to the petitioner yet another opportunity to pay the costs imposed, which also the petitioner did not avail, citing the reason that her bank account had been frozen. It was in these circumstances that the learned Sessions Judge proceeded to dismiss the criminal revision petition *vide* order dated 30.04.2024.
7. Having perused the record and upon a conspectus of the submissions made, this court finds no reason to interfere with the impugned orders in exercise of its inherent powers under section 482 of the Cr.P.C.
8. That being said, yet again, considering the age and the *claimed* financial constraints of the petitioner, by way of abundant indulgence, the petitioner is permitted to avail *one opportunity* to lead defence evidence before the learned Magistrate in Complaint Case No. 162/2017 by paying costs imposed, as aforesaid, within 04 weeks from today.
9. The next date before the learned Magistrate is stated to be 12.07.2024. In view of the order made above, the learned Magistrate is directed to place the matter for recording of defence evidence on a date of his convenience *after* the 04 weeks granted to the petitioner for payment of costs by this order.
10. The petition is disposed-of accordingly.



11. Pending applications, if any, also stand disposed-of.

ANUP JAIRAM BHAMBHANI, J

JULY 2, 2024

V.Rawat