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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 5625/2024**

SUBHASH SAMARIYA

.....Petitioner

Through: Mr. Sanjeev Kumar and Mr. Anil
Kumar Thakur, Advocates.

versus

DHANANJAY

.....Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

24.07.2024

1. By way of the present petition, the petitioner seeks to assail the orderdated 02.02.2024 passed by learned Judicial Magistrate allowing application of complainant for placing on records certain documents and putting up matter from Defence Evidence to Complainant Evidence.
2. Briefly, the facts are that in August 2017, the petitioner issued a cheque bearing No. 071606 amounting to Rs.4,28,180/- to be drawn on J&K Bank.Upon presentation,the said cheque was dishonoured with the remarks 'Drawer Signature Differ'. A legal notice was issued to the petitioner on 18.10.2017, however, when the liability was not discharged, a criminal complaint under Section 138 Negotiable Instruments Act came to be filed. Subsequently, notice u/s 251 CrPC was framed against the petitioner/accused on 22.09.2018. The complainant's evidence commenced on 19.10.2019, wherein the respondent/complainant was examined as CW1.

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After which the petitioner/accused chose to lead Defence Evidence and filed his list of witnesses and documents and his chief examination was recorded. On 07.01.2023, the respondent/complainant filed an application for placing certain documents on records, which the trial court allowed for the purpose of cross examining the petitioner on those documents. Aggrieved by the trial court's order allowing the respondent's application, the petitioner filed the present petition before this court, assailing the order dated 02.02.2024.

3. Learned counsel for the petitioner submits that the order allowing the respondent to place certain documents on record is illegal as it was passed without considering the objections and written submissions of the petitioner. It is further submitted that at this advanced stage of the trial, the complainant should not be allowed to fill up the lacunas in his case by leading his evidence. Therefore, the order dated 02.02.2024 is liable to be set aside.

4. I have heard the submissions made and perused the material placed on record. It is to be noted that vide order dated 02.02.2024, the learned court allowed two prayers, first, an application under Section 311 CrPC for calling witnesses on behalf of the petitioner and second, an application on behalf of the respondent/complainant for placing certain documents on record. Both the applications were allowed by the trial court. At present, the petitioner has approached this court against the order of the Trial Court allowing the respondent to place certain documents on record. It is stated that by said documents the respondent wishes to place on record certain emails which would show the communication between the respondent and the petitioner prior to the presentation of the cheque, by which the respondent's acknowledgement of receiving the cheque, would in turn establish the petitioner's liability.



5. The fact that a fair trial is the hallmark of criminal procedure. It entails not only the rights of the victims but also the interest of the accused. The fundamental principle of a fair trial is succinctly outlined in the case of Manu Sharma v. State (NCT of Delhi) reported as (2010) 6 SCC 1. A well-reasoned judgment diminishes the chances of an appeal and helps alleviate the burden on the courts. Appreciation of evidence must be rational and impartial. It is the duty of every Court to ensure that fair and proper opportunities are granted for just decision of the case. In furtherance of the above, adducing of evidence by the accused in support of his defence is also a valuable right and allowing the same is in the interest of justice.
6. Keeping in view the aforesaid and considering the fact that the Trial Court allowed the prayer of not only the respondent to place certain documents on record but also of the petitioner for calling of witnesses, this court finds no infirmity with the order dated 02.02.2024 passed by the learned Trial Court.
7. Accordingly, the present petition is dismissed and disposed of.

MANOJ KUMAR OHRI, J

JULY 24, 2024
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