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

+ **CRL.REV.P. 1323/2023 & CRL.M.A. 33495/2023**

SHRI RUKESH KUMARPetitioner
Through: **Mr. Kunal Yadav & Mr.**
Prateek Baghel,
Advocates.

versus

THE STATE & ANR.Respondent
Through: **Mr. Raj Kumar, APP for**
the State with Ms. Manvi,
Mr. Sunny, Mr. Manoj
Malik, Mr. Vipin Khera,
Mr. Pankaj Tyagi, Mr.
Vinit, Mr. Nitin Garg &
Mr. Naushad Alam,
Advocates.
Mr. Vinod Mangai,
Advocate for R-2.
SI Vinay (P.S.
Keshavpuram).

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER
25.07.2024

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1. The present petition is filed challenging the order dated 30.05.2023, passed by the learned Principal District & Sessions Judge ('PDSJ'), (N/W) Rohini Courts, Delhi, in CRL.REV. No.117/23 (hereafter the '**impugned order**').
2. By order dated 09.02.2023, the learned MM, Rohini Courts, Delhi closed the petitioner's right to cross examine Respondent No. 2 on the ground that despite seeking sufficient time, the petitioner had failed to cross examine Respondent No. 2.

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3. By impugned order, learned PDSJ, noting that the cross examination of Respondent No. 2 is vital to the comprehensive adjudication of the issues before the learned Trial Court, allowed the cross-examination of Respondent No. 2 subject to the petitioner furnishing a FDR in a sum of ₹2,00,000/- in the name of the learned Trial Court. The petitioner was also directed to pay a cost of ₹5000/- in the following break up, i.e., ₹2500/- be paid to Respondent No. 2 and the remaining ₹2500/- be deposited with RCBA Lawyers' Welfare Fund.

4. On being pointedly asked, the learned counsel for the Respondent No. 2 has not been able to point out as to under which provision, the power has been exercised by the learned Sessions Court directing deposit of a sum of ₹2,00,000/-. In terms of the provisions of Section 143A of the Negotiable Instruments Act, 1881 ('NI Act'), the learned Trial Court while trying an offence under Section 138 of the NI Act '*may order the drawer of the cheque to pay interim compensation*'. The interim compensation in such circumstances shall not exceed twenty per cent of the amount of the cheque. The cheque amount in the present case is ₹8,00,000/-. It appears that the learned Sessions Court had directed the deposit of a sum of ₹2,00,000/- while exercising the power under Section 143A of the NI Act.

5. The same, in the opinion of this Court, is not permissible.

6. The learned Sessions Court in the present case was hearing a revision petition under Section 397 of the Code of Criminal Procedure, 1973 ('CrPC') challenging the order pursuant to which the right of petitioner to cross-examine Respondent No. 2 was closed.

7. It is also not denied that a separate application under Section 143A of the NI Act had already been filed by the
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Respondent No. 2 before the learned Trial Court. The same, it is informed, was not adjudicated upon since order for deposit has been passed by the learned Sessions Court. With the consent of the parties, the direction to deposit a sum of ₹2,00,000/- is set aside and the learned Trial Court is directed to take a decision in the application filed by the Respondent No. 2 under Section 143A of the NI Act before proceeding further with the matter.

8. The learned counsel for the petitioner also submits that no unwarranted adjournments will be taken on behalf of the petitioner at any stage.

9. He submits that Respondent No. 2 would be cross-examined on single day as and when the matter is listed by the learned Trial Court for the said purpose.

10. The petitioner is directed to pay a cost of ₹10,000/- as compensation to Respondent No.2 for the delay caused.

11. In view of the above, the impugned order is set aside to the extent that the petitioner was directed to deposit a sum of ₹2,00,000/-.

12. The learned Trial Court is directed to decide the application under Section 143A of the NI Act on its own merits, without being influenced by the order passed by this Court.

13. All the rights and contentions of the parties are reserved.

14. The petition is allowed in the aforesaid terms.

AMIT MAHAJAN, J

JULY 25, 2024

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