



\$~SB-4

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

+ **CRL.M.C.7421/2024 and CRL.M.A.28356/2024 (Stay)**

**JEEVESH SABHARWAL**

.....Petitioner

Through: **Mr. Aditya S. Pujari, Advocate.**

versus

**SUNINDER SANDHA**

.....Respondent

Through: **Mr. Asim Naeem, Ms. Cherry Gupta,  
Ms. Anisa and Mr. Subhani,  
Advocates.**

**CORAM:**

**HON'BLE MR. JUSTICE TUSHAR RAO GEDELA**

**ORDER**

% **19.09.2024**

**CRL.M.A. 28357/2024 (Exemption)**

1. Exemption is allowed subject to all just exceptions.
2. Application stands disposed of.

**CRL.M.C. 7421/2024**

3. After some arguments, Mr. Aditya S. Pujari, learned counsel appearing for the petitioner restricts his prayer only to the direction that the *prima facie* finding rendered by the Revisional Court of ASJ-06, PHC, be not considered by the learned Trial Court during trial.
4. Learned counsel for the respondent has no objection, in case any such directions are passed.
5. Before passing the order, it would be relevant to extract the specific paragraph, against which Mr. Pujari, learned counsel for the petitioner, is requesting for aforesaid direction.



*“17. ... Therefore, in respect of the amount pertaining to the said factor and the cheques related to that aspect, there cannot be any dispute that the said cheques were **prima facie** issued in discharge of legally enforceable liability of the petitioner. In absence of any conclusive evidence in that regard at the stage of framing of charge, there is no reason to discard the presumption u/s. 118 NI Act against the petitioner.*

*18. Consequently, taking into account, the material available on record, there is sufficient ground to presume that the petitioner has committed the present offence punishable u/s. 138/141 NI Act in all the five complaint cases. Therefore, there is no illegality, infirmity or error in the impugned orders. Hence, no ground is made out for interference in the said legally sustainable orders. In view thereof, all the revision petitions are hereby dismissed. However, as all the said criminal complaint cases are interrelated and they have very vital bearing on each other, it is expedient for the interest of justice to direct that all the said cases be tried and decided simultaneously by the same court.”*

(emphasis supplied)

6. Mr. Pujari, learned counsel for the petitioner has also invited attention of this Court to the contents of para 15 through till para 18 and submits that the observations made therein may have an impact on the trial and as such, also be directed to be not considered by the learned Trial Court.

7. Mr. Pujari, learned counsel for the petitioner states that in the grounds raised herein, the petitioner also seeks transfer of two other criminal complaints stated to have been filed by the petitioner for the purpose of being heard together with the complaint cases in the present case. He states that the said liberty may be granted to pursue independent remedies in that regard.

8. The said prayer made by Mr. Pujari, learned counsel for the petitioner is innocuous and as such there is no impediment in granting liberty to the petitioner to move any appropriate petition/application seeking transfer of



criminal complaints filed by the petitioner to be heard along with the Complaint Case no. 13305/2018, as per law.

9. This Court has considered the submissions of the learned counsel for the parties and also perused the contents of the afore-referred paragraphs. It appears that from para 15 onwards till para 17 of the impugned judgement, the learned Revisional Court considered the facts which were presented before it for the limited purpose of deciding the *lis*, and not for the purpose of rendering a finding thereon. However, the contents of the extracted portion, reproduced herein-above in para 17, even though stated to have been “*prima facie*”, yet it appears to be in the nature of a finding. At the stage of examining the issue in revision, the said *prima facie* finding may impact the trial and prejudice the case of the petitioner. In that view of the matter, it is deemed appropriate to direct that the findings rendered even though *prima facie*, will not come in the way of the learned Trial Court, taking its own independent view in accordance with law after evaluating the facts, the evidence, if any, on record and the law as obtaining.

10. In that view of the matter, the present petition is disposed of accordingly.

11. The learned Trial Court is requested to dispose of the complaint cases expeditiously.

12. The aforesaid order shall be applicable even to the other four complaint cases pending between the parties and filed by the respondent.

13. In view of above terms, the present petition is disposed of.

14. Pending application also stands disposed of.

**TUSHAR RAO GEDELA, J**

**SEPTEMBER 19, 2024/kct**