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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 4212/2013**

VIJAY BHOLA

..... Petitioner

Through: Mr. Neeraj Kumar Mishra, Advocate.

versus

STATE & ANR

..... Respondents

Through: Mr. Laksh Khanna, APP for State.
Mr. Manjeet Singh Bhamra, Advocate
for respondent No.2.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

20.03.2024

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1. By way of present petition filed under Section 482 Cr.P.C., the petitioner seeks setting aside of the order dated 19.09.2013 passed by learned ASJ in criminal revision being CR No.151/13, whereby petitioner's challenge to the order dated 08.07.2013 passed by the learned Metropolitan Magistrate came to be dismissed.

2. Briefly, the petitioner, who is complainant before the trial court, had preferred four separate criminal complaints against the respondent No.2/accused under Section 138 NI Act. In the said complaints, the petitioner claimed that he had advanced different loan amounts to the respondent No.2 against which the cheques in question were issued, which when presented for encashment, were dishonoured. Separate complaints came to be filed w.r.t each of the said cheques, the said complaint being one of them. In the trial, respondent No.2 had examined herself and during her



testimony stated that she had made payment of Rs. 62,000/- to the petitioner who also issued a receipt (mark 'X') for the same. The said receipt was produced in trial for each of the complaint.

In the trial relating to present complaint, petitioner filed an application under Section 73 read with Section 45 Indian Evidence Act seeking sending of the said receipt dated 15.04.2009 to FSL by claiming it to be forged and fabricated. Vide order dated 08.07.2013, the said application came to be dismissed. Against the said dismissal, a revision petition was filed before the learned ASJ which also came to be dismissed vide the impugned order. Both the Courts below came to the same conclusion that though petitioner did not deny his signatures on the receipt and had given evasive reply, however, in the trial relating to other criminal complaints, he had admitted his signatures on the said receipt.

3. At this stage, this Court deems it apposite to refer to the cross-examination of petitioner, which is reproduced hereinbelow:-

"23.05.2011

CW1

Vijay Bhola recalled for further cross examination.

On SA.

Xxxxxx by Sh. M.S. Bhamra, counsel for accused.

I never sign any blank paper.

At this stage, the counsel for the accused has shown document mark X to the witness and asked him whether it bears his signature at point A and whether it was a receipt executed by him in favour of Hema Verma regarding a receipt of Rs. 50,000/- and that after the said receipt, an amount of Rs.2,50,000/- remained to be paid.



The witness has seemed unsure of his reply and has been evasive. After some deliberation, he has hesitatingly stated that he cannot say whether the signatures at point A were affixed by him. He has then stated that he cannot remember because he generally does not sign in the manner apparent at point A. The witness has then volunteered that he had in fact issued a receipt in his own handwriting to Hema Verma and it was not a typed receipt as is the case with document mark A.

At this stage, the court has asked the following questions from the witness.

Court Question: Did you receive Rs.50,000/- from Hema Verma on 15/04/09 and whether the remaining liability was Rs.2,50,000/-?

Answer: The amount of Rs.50,000/- was received by me in the year 2007 and not on 15/04/09 as depicted in receipt mark X. It is incorrect that the remaining liability was Rs.2,50,000/-.

xxx”

4. The petitioner’s cross-examination in the other complaint case with respect to same very receipt is also extracted hereinbelow:-

“03.10.11

Statement of CW1 Sh. Vijay Bhola (recalled for further cross examination)

On SA

xxxxxx Sh. Manjit Singh Bhamra

...At this stage, a certified copy of the receipt dated 15.04.09 is shown to the witness. Witness admitted his signature at point A but he denied its content. He further stated that he had taken Rs.50000/ from accused but there was no stipulation as regards the amount of Rs.2.50 lacs. The receipt is Ex. CW1/D1. I have never given any blank signed receipt to the



accused....”

5. A perusal of the cross-examination conducted on 23.05.2011 would show that the petitioner, at that moment, was not sure and was evasive however, at no stage did he state that the receipt produced was forged and fabricated.

Though now the petitioner claims that in the cross-examination conducted on 03.10.2011, he had mistakenly admitted his signatures, however, concededly, he took no corrective steps to rectify the said mistake. The present application is nothing but an afterthought as the said complaint, wherein the petitioner had admitted his signature, stands decided and has resulted in acquittal of the respondent No.2.

6. Both the Courts below have returned a finding that it is the same receipt, which is sought to be sent for FSL analysis, and which has been admitted in the connected proceedings. In view of the aforesaid, I am of the considered opinion that the impugned orders merits no interference inasmuch as the same has been passed after due consideration of the facts, especially the fact that the petitioner had admitted his signature at point ‘A’ on the receipt in question in the connected matter. Consequently, the petition is dismissed.

7. A copy of this order be communicated to the Trial Court.

MANOJ KUMAR OHRI, J

MARCH 20, 2024

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