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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.REV.P. 633/2015**
RAMESH KUMARPetitioner

Through: Ms. Jaspreet Kaur, Advocate.
versus

GAJRAJ SINGHRespondent
Through: Mr. Satinder Singh and Mr. Saurabh
Pandey, Advocates for respondent.

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

ORDER
07.11.2024

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1. Ms. Jaspreet Kaur, appears on behalf of Mr. Prag Chawla and states that she seeks discharge.
2. Accordingly, at her request, Ms. Jaspreet Kaur, Advocate is discharged in the matter.
3. It has already been noted in order dated 06th August 2024, that no one has appeared for the petitioner on 21st March 2024, 14th August 2023, 16th November 2022, 28th April 2022 and otherwise adjournments have been requested. It was stated that if no one appears on behalf of the petitioner on the next date of hearing, the matter will be taken up *ex-parte*.
4. This petition has been filed for setting aside impugned order dated 21st September 2015 passed by ASJ-05, West, Tis Hazari Courts, Delhi dismissing the appeal against conviction and proceedings under Section 138 of Negotiable Instruments Act, 1881 by judgment dated 30th March 2015 passed by the MM, and order of sentence dated 16th April 2015. The order on



sentence awarded 3 months simple imprisonment and payment of double the cheque amount i.e. Rs. 6,00,000/- (*Rupees Six Lacs Only*) as compensation.

5. The complaint was filed due to dishonor of a cheque bearing No.754662 of Rs.3 lacs issued by petitioner to respondent/complainant on 01st August 2011 drawn on Indian Overseas Bank, Rohini Branch. Respondent presented the cheque with his banker Canara Bank, Bhera Enclave, Paschim Vihar which was returned by memo dated 09th August 2011 with the remarks "*Funds Insufficient*". Post its dishonor, legal notice dated 03rd September 2011 was served, however, no reply was sent by petitioner.

6. Petitioner/accused (DW-2) stated in his defense statement that Rakesh Bansal (DW-1), a friend of accused, wanted a loan of Rs.2 lacs and he put a condition that a security cheque is issued by the petitioner/accused in favour of the complainant. Thus, petitioner/accused gave a blank cheque.

7. In the impugned judgement of the ASJ, paragraph 6, deals with the contentions of the parties. It is noted that during cross-examination, DW-1, Rakesh Bansal stated that he received Rs.2 lacs from the respondent/complainant, and then again later stated that the petitioner/accused had received Rs.2 lacs.

8. DW-1 further stated that he had given a cheque for an amount of Rs.2 lacs which he had received from the petitioner/accused. Thereafter, he stated that he received an amount of Rs.2 lacs from the respondent/complainant.

9. On the other hand, petitioner/accused (DW-2), during his examination-in-chief, stated that he received an amount of Rs. 2 lacs from the complainant in cash and returned the amount with Rakesh Bansal (DW-1) to the respondent/complainant after two months.



10. The Appellate Court of ASJ notes that the MM has rightly disbelieved the defense put forward by the petitioner/accused, as there are severe contradictions in the testimonies of DW-1 and DW-2, and it could not be believed that this nature of transactions would have happened.

11. Further, while the petitioner/accused contended that no legal notice was received by him, the impugned judgement of the ASJ notes that the appellant, at the time of framing of notice, admitted that he had received the legal notice and even replied to the same.

12. The impugned judgement of the ASJ has rightly noted that without executing any receipt or document of these transactions, the amount would be paid by DW-1 or by the petitioner/accused. It was also noted that DW-1 categorically stated that he did not remember the date when the petitioner returned the amount to respondent/complainant. Thus, the whole transaction as put forward by the defense, was disbelieved.

13. Accordingly, this Court does not find any infirmity, illegality, or impropriety in the impugned order.

14. Counsel for the respondent/complainant has duly assisted the Court in the perusal of the record.

15. In order dated 20th November 2015, it is also noted that Rs.3 lacs was volunteered to be deposited by the petitioner, which was duly complied with and has been duly received by the respondent.

16. The petition is, therefore, dismissed.

17. Order be uploaded on the website of this Court.

ANISH DAYAL, J

NOVEMBER 7, 2024/RK/sc