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

+ **CRL.M.C. 1229/2025**

RISHI MUNI DUBEY

.....Petitioner

Through: Mr. Rajat Bhardwaj, Advocate along
with Ms. Ankita M. Bhardwaj, Mr.
Saurav Kakroda and Mr. Kaustubh
Khanna, Advocates (through VC)

versus

STATE OF NCT OF DELHI & ANR.Respondents

Through: Mr. Rajkumar, APP for State.

CORAM:

HON'BLE DR. JUSTICE SWARANA KANTA SHARMA

ORDER

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16.04.2025

CRL.M.A. 11395/2025(modification of order dated 24.02.2025)

1. By way of this application, the petitioner seeks modification of order dated 24.02.2025 passed by this Court in the above-captioned petition, to the following extent:

“A. Clarify and modify the order dated 24.02.2025 to the extent that a period of more than two months be granted to complete all the remaining proceedings, including cross-examination of the Complainant, leading of defence evidence, recording of statement of accused, and the final arguments; and

B. Pass such other or further orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.”

2. Vide order dated 24.02.2025, this Court had allowed the petition and set aside the impugned order dated 16.12.2024 passed by the learned Judicial Magistrate, First Class (NI Act)-04, PHC, New Delhi and granted

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the petitioner an opportunity to cross-examine the complainant, subject to payment of cost of Rs. 25,000/- to respondent no. 2.

3. The relevant extract of the order dated 24.02.2025 reads as follows:

“8. After hearing arguments addressed by learned counsel for both parties and examining the record, this Court finds that the contention of the learned counsel – that the complainant’s cross-examination on the execution of the MoU is essential to deciding the case – has merit. Clearly, the dispute in this pertains to the execution of MoU dated 03.08.2019 between the parties, in pursuance to which a cheque for an amount of ₹8 lakhs had been issued by the accused persons, which had been dishonored upon its presentation, resulting in filing of a case under Section 138 of the Negotiable Instruments Act, 1881. Though the petitioner’s conduct of repeatedly seeking adjournments and his failure to previously cross-examine the witness is not commendable, in the interest of justice and to ensure a fair decision, this Court directs that the petitioner be permitted to cross-examine the witness in one single opportunity, subject to payment of a cost of ₹25,000/- to the respondent no. 2, prior to the cross-examination.

10. The learned Trial Court will ensure that the cross-examination is conducted in the month of March, 2025 and the final arguments are heard in the month of March, 2025 itself.”

4. The learned counsel for the petitioner points out that in paragraph 10 of the order, this Court had directed that the learned Trial Court shall ensure that the cross-examination is conducted in the month of March, 2025 and the final arguments are also heard in the month of March, 2025 itself. However, in a connected matter i.e. CrI. M.C. 1230/2025, this Court had also allowed the petitioner herein to lead defence evidence subject to payment of costs, and the learned Trial Court was directed to endeavour to decide the case within two months. It is submitted that two months were granted by this Court after taking into consideration the request of the learned counsel for both the parties that it would not be practically possible for them to conclude



all the proceedings in the month of March, 2025 itself.

5. It is further stated that on 24.02.2025, the matter was also listed before the learned Trial Court wherein it was submitted that the order dated 16.12.2024 had been set aside by this Court. On joint request of parties, the matter was fixed for 05.04.2025 at 2 P.M. Thereafter, upon receipt of the certified copy of the order of this Court, the learned Trial Court had fixed the matter for 28.03.2025 for cross-examination of CW-1. On 28.03.2025, both the parties, through their respective counsel, appeared before the learned Trial Court and jointly submitted that they were not available in March 2025. The order of the learned Trial Court in this regard is set out below:

“In terms of the order dt. 24.02.2025, the matter is taken up today for crossexamination of CW1, however, both parties have jointly submitted that they are not available in the month of March, 2025. Ld. Counsel for the accused submits that a request was made before the Hon'ble Delhi High Court to grant time for concluding the proceedings in the present case as it was communicated that it was not practically possible to conclude the proceedings in the month of March, 2025. The said request was accepted by the Hon'ble Delhi High Court in the connected matter. Therefore, parties were under an impression that this case shall be taken up along with the connected matter for further proceedings.”

6. This Court's attention is also drawn to the fact that the certified copy of this Court's order was received by the learned Trial Court only on 27.03.2025, thereby, leaving practically no time for compliance with the directions to conduct the cross-examination as well as conclude final arguments in the month March, 2025.

7. Considering the submissions made before the Court, and taking into consideration the order dated 24.02.2025 passed in connected matter, this Court is inclined to allow the present application. The paragraph 10 of order

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dated 24.02.2025 shall now read as under:

“10. The learned Trial Court shall endeavour to ensure that the cross-examination is conducted and final arguments are heard preferably within a period of two months.”

8. Accordingly, the application stands disposed of.
9. The order be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J

APRIL 16, 2025/vc

Click here to check corrigendum, if any

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