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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.M.C. 242/2020 & CRL.M.A. 1084/2020, CRL.M.A. 1085/2020
M/S. GIRDHARI LAL & SONS PETROCHEM PVT. LTD. & ORS.

.....Petitioners
Through: Mr. Harshit Jain, Ms. Mala Sharma,
Advts.
versus

SMT. SHASHI GUPTA

.....Respondent
Through: Mr. Ankit Jain, Sr. Adv. with Mr.
Kartik Sabharwal, Mr. Divyanshu
Rathi, Advts.

CORAM:
HON'BLE MR. JUSTICE JASMEET SINGH

ORDER
07.01.2025

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1. This is a petition seeking to challenge the impugned order dated 17.12.2019 passed by learned ASJ, Karkardooma in Crl. Rev. No. 230/2019 and the order dated 03.09.2019 passed by the learned MM in CC No. 56287/2016.
2. The facts are that the respondent had filed a complaint under Section 138 of the Negotiable Instruments Act, 1881 on the basis of bouncing of cheque.
3. It was the case of the respondent that he had advanced a loan of Rs. 40,00,000/- to the petitioners.
4. On 16.01.2018, the petitioners filed an application under Section 45 of the Indian Evidence Act before the learned MM seeking permission to appoint a handwriting expert to take signature and thumb impressions of the



respondent and petitioners to compare the same with the loan documents, i.e. the Loan Agreement, Receipt and Promissory Note.

5. The said application was filed pursuant to the High Court order dated 13.11.2017 wherein the Court on withdrawal of a petition on similar grounds granted liberty to the petitioners to approach the trial court. This application was dismissed by the learned MM on 03.09.2019. The revision against the said order was also dismissed on 17.12.2019.

6. Hence, the present petition.

7. Mr. Jain, learned counsel for the petitioners states that in the present case, the petitioners is seeking appointment of a handwriting expert to compare/examine the signatures appearing on the Promissory Note, Loan Agreement and Receipt (purportedly executed) with the signatures/ thumb impressions of the petitioners alleging that the same are forged and fabricated.

8. It is stated by the learned counsel that the cheque was issued only as a security in a separate transaction and not for discharge of any liability in any loan.

9. In the present case, the order of the learned MM categorically shows that the complaint has been pending for long and is at the stage of final arguments since 22.11.2014.

10. A similar application was filed by the petitioners on 12.12.2017, which was dismissed by the learned MM.

11. As rightly observed by the learned MM, there is no satisfactory explanation as to why the present application for handwriting expert was not filed by the petitioners during Defense Evidence stage.

12. Even otherwise, the documents which are sought to be examined



through the handwriting expert are the documents which are being relied upon by the complainant/respondent. The onus of proving the documents lies on the complainant/respondent and there is no obligation on the part of the petitioners to disprove the said documents.

13. The learned MM also considered that during the framing of notice under Section 251 Cr.Pc, the petitioner has categorically stated that the cheque in question has been given as a security and the loan amount already stands re-paid. Hence, the factum of advancement of loan and the cheque in question is not disputed.

14. The said reasoning found favor with the learned Sessions Court who dismissed the revision petition.

15. My attention has also been drawn to the statement under section 313 Cr.Pc wherein the petitioner no.2 has categorically stated that the loan was taken by the petitioners and the petitioner admitted to the signature of the petitioner on the cheque. However, the petitioner has only disputed the amounts.

16. There is also no satisfactory explanation as to why the application was filed at a belated stage once the matter is listed for final arguments.

17. For the said reasons, I am not inclined to interfere in the petition and the same is dismissed.

JASMEET SINGH, J

JANUARY 7, 2025/sp

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