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

+ **CRL.REV.P. 50/2014**

HITESH BHUTANI

.....Petitioner

Through: Mr. Manu Sisodhia, Adv.
versus

STATE & ANR.

.....Respondents

Through: Mr. Naresh Chahar, APP
Mr. Sanjeev Soni, Adv. for R2

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

10.03.2025

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1. This is a petition challenging the judgment dated 27.11.2013 passed by the learned ASJ (Central) Tis Hazari Court, Delhi, in Crl. Revision No.91/2012, titled as "*Smt. Asha Handa vs. State and Anr.*".
2. The brief facts of the case are that on 29.11.2004, the respondent No.2 filed a complaint against the petitioner for criminal breach of trust under Section 406 IPC, claiming that her husband lent a car bearing No.DL-9C-F-6523 to the petitioner due to good relations between them and on an undertaking that the petitioner would hand over the car as and when demanded by her husband.
3. However, the petitioner refused to return the car later and falsely claimed *vide* the notice dated 12.10.2004 that the car was a collateral for a loan of Rs. 4,00,000/- in cash given by the petitioner to the husband of the respondent No.2.
4. After the police initially did not register the FIR, the respondent no.2 sought a court order, leading to the registration of the FIR and the return of the car on *supardari* to the respondent No.2.



5. The respondent no.2 alleged that the petitioner forged a document i.e. Undertaking dated 07.07.2004, claiming the respondent no.2 and her husband acknowledged receiving Rs. 12,00,000/- as a loan from the petitioner and the sum of Rs. 3,80,000/-, the price of the car, was adjusted towards the loan amount.
6. *Vide* the order dated 30.06.2008, the learned MM dismissed the complaint of the respondent No.2 based on the FSL findings of the undertaking dated 07.07.2004 and the final report of the concerned IO recommending closure of the said complaint.
7. Aggrieved by the order dated 30.06.2008, the respondent No.2 filed a revision petition challenging the same.
8. *Vide* the impugned judgment dated 27.11.2013, the learned ASJ observed that the petitioner has made three conflicting claims which read as under:-
 - A. First, he stated that the car was entrusted to him in May 2004, despite issuing loan notices in September 2004 claiming Rs. 3,00,000/- and Rs. 1,20,000/- respectively against the husband of the respondent No.2;
 - B. Secondly, he claimed that the husband of the respondent No.2 took a loan of Rs. 4,00,000/- for the car *vide* the reply dated 13.10.2004 to a demand notice dated 09.10.2004;
 - C. Thirdly, during the investigation, a document surfaced indicating the respondent No.2 and her husband acknowledged receiving a Rs. 12,00,000/- loan from him.
9. Thus, the learned ASJ concluded that *prima facie* case was made out for summoning the petitioner and the order dated 30.06.2008 of the



learned MM was set aside.

10. Aggrieved by the impugned judgment, the petitioner has filed the present revision petition.
11. Mr. Sisodhia, learned counsel appearing on behalf of the petitioner, states that the learned ASJ failed to appreciate that the learned MM has rightly held that the respondent No.2 has failed to *prima facie* prove that the petitioner committed any breach of trust with respect to the entrusted car.
12. Mr. Soni, learned counsel appearing on behalf of the respondent No.2, supports the impugned judgment of the learned ASJ and opposes the present revision petition.
13. I have heard learned counsel for the parties and perused the material on record.
14. It is pertinent to note that *vide* the judgment dated 29.05.2015 passed by the learned MM-02 (Central) Tis Hazari Courts, Delhi, the husband of the respondent No.2 was acquitted under Section 138 of NI Act and *vide* the judgment dated 18.10.2016, the leave to appeal against the said judgment has also been dismissed.
15. The above-mentioned judgments pertain to the loan amount of Rs. 3,00,00/- from the petitioner to the respondent No.2 and the same was part of the undertaking dated 07.07.2004.
16. Hence, for the aforesaid reasons, to state that the said complaint of the respondent No.2 is without any merit or cause of action would not be proper for this Court.
17. In addition, *vide* the impugned judgment, the learned ASJ has only directed that the said complaint should proceed further and the



petitioner should be summoned.

18. Thus, the grounds raised in the present petition by the petitioner are available and can be raised at the time when the parties lead their respective evidence in the trial of the said complaint.
19. For the said reasons, the petition is dismissed and is disposed of accordingly.
20. The parties shall appear before the concerned MM on 28.03.2025 at 10:00 AM.

JASMEET SINGH, J

MARCH 10, 2025 / (MS)

(corrected and released on 18.03.2025)

Click here to check corrigendum, if any