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

+ **CRL.M.C. 3710/2023**

RAMESH CHAND SHUKLA

.....Petitioner

Through: Mr. Haider Ali, Advocate,

versus

NITIN AGGARWAL

.....Respondent

Through: Mr. Nitin Aggarwal Advocate

CORAM:

HON'BLE MR. JUSTICE ARUN MONGA

ORDER

19.08.2025

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1. The petitioner herein seeks setting aside of the impugned order dated 06.03.2023, passed by the learned Principal District and Sessions Judge, Rohini Courts in CRL. Revision No. 335 of 2022, as well as the impugned order dated 22.04.2022 in Ct. Case No. 13726/2017, passed by the learned Metropolitan Magistrate, Rohini, Delhi, and thereby prays for restoration of the petitioner's right to file an application under Section 145(2) of the NI Act and to cross-examine the respondent.

2. Facts necessary for the disposal of the petition are as under:

2.1 On 10.11.2017, the complainant/respondent filed a cheque bounce case (Ct. Case No. 13726/2017) before the Rohini Courts, New Delhi, alleging that the petitioner had borrowed ₹5,00,000/- by November 2016 and issued the cheque in question, which was dishonoured.

2.2 On 19.01.2019, the petitioner appeared before the concerned Court.

2.3 By order dated 30.01.2020, the learned Trial Court gave him one



further opportunity to file an application under Section 145(2) NI Act,(to cross-examine the complainant with reference to his affidavit) subject to costs of ₹1,000/-, which was duly paid and the matter was adjourned to 15.07.2020.

2.4 It is asserted in the petition that due to the Covid-19 pandemic, normal court functioning was suspended. On 15.07.2020, no effective hearing took place, and proceedings remained disrupted for nearly two years. The case was next listed for physical hearing on 19.02.2022, when the petitioner was absent, his ability to pursue the case being affected by the pandemic. By order dated 19.02.2022, to file the application U/s 145(2) of NI Act and the matter was adjourned to 22.04.2022, though the petitioner was unaware of this order.

2.5 On 22.04.2022, the petitioner again could not appear, and by order dated 22.04.2022 of learned Metropolitan Magistrate (NI Act), Rohini, his right to file an application under Section 145(2) NI Act was closed. The case was then adjourned to 08.08.2022.

2.6 On 08.08.2022, when physical hearings had resumed, the petitioner/accused appeared with counsel and filed an application under Section 315 Cr.P.C (for permission to appear as his own witness) which was allowed. On that date, he first came to know that his right under Section 145(2) NI Act (to cross-examine the complainant) had already been closed. The case was adjourned to 26.09.2022, when the petitioner again appeared and sought adjournment to prepare a revision petition against the order dated 22.04.2022. Since the respondent was absent, adjournment was granted and the matter posted for 26.11.2022.

2.7 On 09.11.2022, the petitioner filed Criminal Revision No. 335/2022



challenging the order dated 22.04.2022. The said revision was contested by the respondent and dismissed by order dated 06.03.2023 of the learned Principal District and Sessions Judge, Rohini Courts *vide* impugned order dated 06.03.2023 placed on record as Annexure P5.

2.8 This petition has been filed for allowing the accused/petitioner for permission firstly, to cross-examine the complainant and secondly to appear as his own witness in defence.

3. Learned counsel for respondent states that there is no objection to the complainant-respondent's appearing in the witness box for his cross-examination, provided that a heavy cost is imposed. He insists for Rs. 20,000/- as the costs.

4. In my opinion, given the aforesaid facts and circumstances, coupled with the concession made by learned counsel for respondent, and in order to meet the ends of justice, it would be appropriate, fair, and reasonable to grant the petitioner one effective opportunity to cross-examine the complainant and to allow him to appear as his own defence witness, subject to payment of costs of Rs. 5,000/-. Ordered accordingly.

5. However, the learned Trial Court shall be at liberty to adjourn the matter on its own discretion, depending on the day-to-day work before it, but no adjournment shall be given at the instance of petitioner herein.

6. The petition is allowed and stands disposed of accordingly in the above terms.

ARUN MONGA, J

AUGUST 19, 2025

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