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

+ CRL.M.C. 1691/2021 & CRL.M.A. 11809/2021

NITIN JAIN

.....Petitioner

Through: Ms. Khushboo Singhal, Advocate.

versus

YASHVIR SHARMA

.....Respondent

Through: Mr. Nitin Kalra, Advocate.

+ CRL.M.C. 1700/2021 & CRL.M.A. 11867/2021

NITIN JAIN

.....Petitioner

Through: Ms. Khushboo Singhal, Advocate.

versus

YASHVIR SHARMA

.....Respondent

Through: Mr. Nitin Kalra, Advocate.

+ CRL.M.C. 1701/2021 & CRL.M.A. 11869/2021

NITIN JAIN

.....Petitioner

Through: Ms. Khushboo Singhal, Advocate.

versus

YASHVIR SHARMA

.....Respondent

Through: Mr. Nitin Kalra, Advocate.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

07.04.2025

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1. Petition under Section 482 Cr.P.C has been filed for quashing



of Order dated 13.03.2020 *vide* which the learned ASJ has dismissed the Revision against the Order dated 15.01.2020 of the learned M.M closing the right of the Petitioner (accused) to cross examine the Respondent/Complainant in C.C.Nos.541492-94/16 under Section 138 N.I.Act.

2. It is submitted in the Petition that the Complaint under Section 138 N.I.Act was filed on 13.10.2016 in which the Petitioner/accused who got summoned, has since then delayed the proceedings. Thereafter, an Application under Section 145(2) N.I.Act was filed on behalf of the Petitioner which was allowed *vide* Order dated 18.07.2018 and was given a right to cross examine the Respondent/Complainant.

3. The matter was fixed for cross examination. On some dates when the counsel for the Petitioner/accused could not make himself available. Consequently, *vide* impugned Order dated 15.01.2020, the right of the Petitioner to cross examine the Complainant was closed.

4. The Order is challenged on the ground that the learned M.M has failed to appreciate that no Orders could be passed against the Petitioner in his absence. The Order is violative of Section 273 and 317 of Cr.P.C. The impugned Order is not legally sustainable and is liable to be set aside.

5. **Submissions heard and record perused.**

6. Essentially, the Petitioner has been given more than 7-8 opportunities for cross examination of Complainant despite which on every date either he or the counsel was not available. Ultimately, learned M.M closed the right to cross examine the Complainant.



7. The main contention is that the Order was made in the absence of the accused; which is incorrect as on 15.01.2020 the Petitioner/accused was being represented by the proxy counsel.
8. In so far as the right to cross examine the Complainant is concerned, though the conduct of the Petitioner is such that despite innumerable opportunities he has failed to cross examine the Complainant, but in the interest of justice, one opportunity is given to the Petitioner to cross examine the Respondent on which date the Complainant shall make himself available for cross examination. In case the cross examination is not conducted for whatsoever reason, the same shall stand closed.
9. The opportunity to cross examine is granted subject to payment of cost of Rs.50,000/- to the Complainant.
10. Petitions are accordingly disposed of.

NEENA BANSAL KRISHNA, J

APRIL 7, 2025

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