



\$~1

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

+ CRL.M.C. 3154/2021, CRL.M.A. 19516/2021 &
CRL.M.A.19518/2021

BABITA SAINI

..... Petitioner

Through: Mr.Lalit Kumar, Ms. Babita Sahni
& Ms. Preeti, Advocates

Versus

GULSHAN KUMAR CHHABRA

..... Respondent

Through: Mr. Vikrant Mittal, Advocate

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

24.03.2025

%

1. Present Petition has been filed for setting aside the Order dated 01.12.2018 of the learned M.M vide which her right to cross examine the Complainant in Complaint Case No. 58204/2016 and Complaint Case No. 58205/2016 , filed under Sections 138 of The Negotiable Instruments Act, was closed.

2. It is submitted in the Petition that the Petitioner is a practicing Advocate against who two Complaints under Section 138 of the Act had been filed by the Complainant, in respect of two cheques of Rupees One Lac each.

3. It is submitted that though the Complainant was cross-examined in part but the right to cross-examine any further, was closed *vide* impugned



order dated 01.05.2018. It is submitted that joint trial has been conducted in both the complaint cases, which is not allowed, as common cognizance cannot be taken on different cause of action. Hence, the defence taken by in both the cases cannot be identical and the case of the Petitioner has been seriously prejudiced.

4. It is further submitted that the Application under Section 311 Cr.P.C. was filed before the learned MM which was dismissed by observing that it would tantamount to review of his common Order, which is impermissible under law. It is submitted that there is gross error in the impugned Order closing the right of the Petitioner for further cross-examination of the Complainant. Prayer is, therefore, made that the impugned Order be set aside and the Petitioner be permitted to cross-examine the Complainant further in accordance with the law.

5. Learned Counsel for the Respondent/ Complainant has taken objection that there would be two separate Complainants under Section 138 of the N.I.Act, in which separate Orders have been passed. Further, the two Revision Petitions were filed before the learned Court of Sessions, however, herein one consolidated Petition has been filed which is in respect of two independent Complaint cases and the present Petition is not maintainable.

6. It is further submitted by learned Counsel for Respondent / Complainant that despite due opportunities given to the Petitioner/accused, who herself is an Advocate, she is merely trying to delay the proceedings and did not conclude the cross-examination. It is also submitted that there is no infirmity in the impugned Order and this Petition is liable to be dismissed.



7. Submissions heard and record perused.

8. A perusal of the record shows that the Complainant was cross-examined on 11.01.2019. Her further cross-examination was conducted on 23.06.2018 and the matter was thereafter, adjourned for 01.12.2018 for conclusion of cross-examination of the Complainant. However, the Petitioner sought an exemption on medical grounds and the adjournment was also sought for concluding the cross-examination of the Complainant. Considering it to be not a sufficient reason, the right to further cross-examination of the Complainant was closed on 01.12.2018.

9. Considering that on earlier two dates, the Complainant was partly cross-examined by Petitioner, it is hereby directed that one opportunity be granted to the Petitioner to conclude the cross-examination of the Respondent/Complainant in both the Complaint cases, subject to cost of Rs.7,500/- each both the Complaint cases. The cross-examination shall be concluded on the date on which it is fixed before the learned Trial Court and neither shall seek adjournment on the said date.

10. Parties are directed to appear before the learned Trial Court on the date already fixed.

11. With directions as aforesaid, the present Petition and pending Applications are accordingly disposed of.

NEENA BANSAL KRISHNA, J

MARCH 24, 2025

r