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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CRL.L.P. 198/2018 & CRL.M.A. 5754/2018

KRITENDER SHARMA

.....Petitioner

Through: Mr. Ujjwal Jha, Adv.

versus

THE STATE GOVT OF NCT OF

DELHI & ORS

.....Respondents

Through: Mr. Sunil Kumar Gautam,
APP for the State

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

28.04.2025

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1. The present petition is filed challenging the judgment dated 29.11.2017 (hereafter '**impugned judgment**'), passed in CC No. 530285/16, whereby the complaint filed by the petitioner under Section 138 of the Negotiable Instruments Act, 1881, was dismissed by the learned Trial Court after noting that the affidavit of evidence on behalf of the petitioner wrongly mentions the respondent / accused as '*Manoj Kumar*'.

2. The petitioner had filed the subject complaint against Respondent No.2 (Mr. Avtar Singh Rekhi) alleging that the cheque issued by the Respondent No.2 for a sum of ₹5,00,000/- had been dishonoured *vide* Bank Memo dated 21.09.2007 for the reason-'Funds Insufficient'. The petitioner had filed an affidavit of evidence, however, the title was mentioned as "*Mr. Kritender Sharma v. Mr. Manoj Kumar*".

3. During cross-examination, the petitioner stated that another case was filed by him against one Manoj Kumar and there is a possibility that the affidavits got exchanged between



the two cases.

4. By the impugned judgment, the learned Trial Court dismissed the complaint and acquitted the respondent by observing that the mistake is substantial in nature and the same went to the root of the matter. It was also held that the petitioner had failed to take steps to correct the fundamental error in his case.

5. The learned counsel for the petitioner submits that a typographical error had crept in the affidavit of evidence inadvertently.

6. He submits that the petitioner had filed two affidavits by way of evidence in support of his case, that is, the affidavit of evidence of the petitioner and the affidavit of evidence of CW-2 Nagender Sharma. He submits that even if the petitioner's affidavit with the incorrect title was to be rejected, the complaint should have been adjudicated on merits by taking into account the other evidence on record.

7. He submits that no consideration was accorded to the other evidence on record by the learned Trial Court and the only reason for rejection of the complaint was the typographical error in the affidavit of evidence filed by the complainant.

8. He submits that the petitioner is also willing to adequately compensate the respondent for the time consumed due to the error.

9. The respondent appears in person and submits that the case has been pending since the year 2007 and grave prejudice has been caused to him due to the pendency of the frivolous case.

10. The petitioner does not disown or dispute the content of the affidavit of evidence. It, thus, appears to be a case of a typographical error. In the opinion of this Court, the error ought



to have been permitted to be corrected in the interests of justice for adjudication on merits.

11. In view of the above, the impugned judgment is set aside and the learned Trial Court is directed to pass an order afresh without being influenced by the typographical error as noted above.

12. However, considering that the complaint was filed initially way back in the year 2007, and the error, as admitted by the petitioner, was not corrected during the intervening ten years before passing of the impugned judgment, the respondent ought to be adequately compensated for the delay and harassment.

13. The petitioner is directed to pay a cost of ₹60,000/- to the respondent within a period of four weeks. The proof of payment of cost be provided to the learned Trial Court.

14. The present petition is disposed of in the aforesaid terms.

15. List before the Trial Court for further proceedings on 28.05.2025. The parties are directed to appear before the learned Trial Court on the next date of hearing.

16. The petitioner is permitted to file a fresh copy of affidavit of evidence by correcting the typographical error for the sake of proper record keeping.

17. A copy of this order be communicated to the learned Trial Court for necessary compliance.

AMIT MAHAJAN, J

APRIL 28, 2025

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