



\$~48 & 49

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

+ CRL.M.C. 5531/2018

INDIAN RENEWABLE ENERGY DEVELOPMENT AGENCY
LIMITED (IREDA)

.....Petitioner

Through: Mr. Gurpreet Singh, Mr. Bakuk Jain
and Mr. Ayush Rathor, Advocates.

versus

STATE & ORS.

.....Respondent

Through: Mr. Utkarsh, Ld. APP for State.
Mr. Bhagat Singh, Advocate for R-3.

49

+ CRL.M.C. 5532/2018

INDIAN RENEWABLE ENERGY DEVELOPMENT AGENCY
LIMITED (IREDA)

.....Petitioner

Through: Mr. Gurpreet Singh, Mr. Bakuk Jain
and Mr. Ayush Rathor, Advocates.

versus

STATE & ORS.

.....Respondent

Through: Mr. Utkarsh, Ld. APP for State.
Mr. Bhagat Singh, Advocate for R-3.

CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER
07.04.2025

%

1. Petition under Section 482 Cr.P.C have been filed on behalf of the
Petitioner/Complainant to challenge the Order dated 26.10.2018 in
Complaint Case under Section 138 Negotiable Instruments Act, whereby his



Application under Section 311 Cr.P.C to reexamine CW1 And to examine another witness Mr. Vikram has been declined.

2. It is submitted in the Petition that the Respondent/Accused had issued a Cheque in the sum of Rs.1 Crore 20 Lakhs dated 23.08.2001 which on presentation was dishonoured with the endorsement “Payment Stopped by Drawer”. After giving a Legal Notice dated 07.03.2002 to which no response was given by the Respondent/Accused, a Complaint under Section 138 NI Act was filed. Thereafter, the Complainant/Petitioner examined CW1 Ankit Dwivedi in support of his case. The Complaint was filed, however, the Respondent failed to appear and eventually proceedings under Section 82 Cr.P.C. were initiated against them, but in between Respondent No.3 put an appearance and he was admitted to Bail. Thereafter, the Complainant examined CW1 Ankit Dwivedi. Last opportunity was granted to the Petitioner to produce witnesses from the Finance Department on 20.08.2018, despite which no witness was produced. The statement of the Respondent No.3 was recorded on 07.09.2018. Thereafter, the matter was listed for final arguments. Thereafter, an Application on behalf the Complainant was filed for examining Vikram Singh Yadav, Sr. Manager, Finance but the Application was dismissed vide Order dated 01.09.2018.

3. Thereafter, final arguments addressed and then the present Application was dismissed on 20.08.2018 and thereafter Statement under Section 313 Cr.P.C was recorded. The matter was argued at which the present Petition has been filed.

4. It is submitted on behalf of the Petition that there was a mention in the Complaint of the Loan Agreement of the Legal Notice and UPC to which it was served, though inadvertently the original documents could not be



produced when CW1 was examined. This aspect was noticed when the new Counsel got engaged and therefore, has filed the present Petition.

5. Learned counsel on behalf of the Respondent, however, has contested the present Petition. It is submitted that the prayer for examination of additional witness and to bring on record additional documents had been dismissed on 01.09.2018 by the learned M.M, after which the Complainant had participated in the proceedings. No grievance was made of the impugned Order. It is only when in the final arguments the Counsel for the Respondent pointed out that no Legal Notice or UPC has been proved in the testimony of CW1 that the Petitioner became wiser and has filed the present Petition only to fill up the lacunae in his evidence. The Petition is, therefore, vehemently opposed.

6. It is further argued that in the Application under Section 311 Cr.P.C the only prayer made was for examination of additional witness CW2 but the prayer in the present Petition has been expanded to not only seek further examination of CW1 but also to place on record certain additional documents.

7. Learned counsel for the Petitioner in his rejoinder arguments has clarified that his Application under Section 311 Cr.P.C while seeking examination of CW2 it had been stated that his Statement of Account of Respondent Company maintained by the Complainant and the Undertaking dated 30.06.1998 executed by Respondents in terms of Clause of Loan Agreement dated 16.05.1998. It is, therefore, clarified that while making a prayer for re-examination of CW1 and examination of CW2 it was clearly stated in the body of the Application that by way of Affidavit of Evidence of CW2 the two documents mentioned above were required to be proved.



8. **Submissions heard and record perused.**

9. The record shows that though the Complaint was filed in the year 2002, but because of the non-availability in tracing of the Respondents, the case got dragged in 2018 when the Respondent No.3 appeared and the trial proceeded. The Statement of the Complainant was duly recorded, but the documents i.e. the Loan Documents, Legal Notice and the UPC to which a reference was made in the Complaint itself and was also referred to by CW1 in his testimony were not exhibited on account of non-production of the original documents.

10. The Application made by the Complainant soon thereafter under Section 311 Cr.P.C got dismissed on 26.10.2018 and thereafter the present Petition has been filed on 27.10.2018.

11. From the record it can be inferred that the documents namely Loan documents, the Legal Notice and UPC form the part of the documents on which reliance was placed by the Petitioner since beginning. Though the same were not proved in the testimony of CW1 on account of non-production of original documents, but considering the circumstances and also that these were the documents relied upon since beginning, the re-examination of CW1 limited to proving these three documents is hereby allowed.

12. However, so far as examination of CW2 to prove the two documents are concerned, it is observed that in the Complaint there was no mention, whatsoever, about these two documents and there was not a whisper to examine CW2 either in the List of Witnesses or otherwise.

13. There is no ground for permitting the examination of CW2, which prayer is declined. The present Petitions are partly allowed and CW1 be



examined further to the limited extent subject to cost of Rs.50,000/- to be paid to the Respondent No.3.

14. Only one opportunity shall be granted for re-examination and no further opportunity on any ground shall be granted by the learned Trial Court.

15. Parties are directed to appear before the learned M.M on 02.05.2025.

NEENA BANSAL KRISHNA, J

APRIL 7, 2025/va