



\$~79

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

+ **CRL.M.C. 3499/2024**

ASHOK RAJA

..... Petitioner

Through: Mr. Vikas Chhabra and Mr. Kartik Mittal, Advs. with petitioner in person.

versus

DHRUV MADAN

..... Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER

% **15.05.2024**

CRL.M.A. 13431/2024 (exemption)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

CRL.M.C. 3499/2024 & CRL.M.A. 13432/2024 (stay)

3. The present petition has been filed against the impugned order dated 25.01.2024 passed in CRL. REV. 392/2023 whereby the criminal revision filed by the petitioner was dismissed.
4. The said criminal revision was filed by the petitioner against the order dated 16.03.2023 passed by the learned Metropolitan Magistrate whereby an application of the respondent under Section 143A of NI Act was allowed and direction was given to the petitioner to make a payment of Rs. 30 Lakhs as interim compensation being 20 per cent of the cheque amount.
5. The learned counsel for the petitioner submits that the petitioner is father-in-law of the respondent. The petitioner was having a company by the name of Him Alloys and Steels Pvt. Ltd.



6. The case of the complainant is that he had made certain investments in the said company of his father-in-law and he also received returns from the said company.

7. The learned counsel for the petitioner submits that the relations of the respondent no. 2 became strained with the daughter of the petitioner. The respondent filed a complaint alleging forgery and cheating against the present petitioner and on the pretext of said complaint, the petitioner was called to the crime branch where under the pressure and coercion a settlement was arrived at on 07.07.2018 and 12 cheques were forcibly taken from the petitioner in favour of the respondent. One of the said cheques is subject matter of the present petition.

8. He submits that the learned Metropolitan Magistrate has passed an order under Section 143A of the NI Act directing payment of 20 per cent of the compensation amount primarily on the ground that the conduct of the accused in the present case was far from satisfactory and coercive steps had to be initiated by the Court for securing his presence. Further, *vide* order dated 12.01.2023, the bail bond of the petitioner was also forfeited.

9. He submits that the reason for issuance of non-bailable warrants against the petitioner *vide* order dated 25.11.2022 was that the petitioner could not appear as he had suffered from spine and neuro problems.

10. He submits that the petitioner has not been keeping well since July, 2020 as he had also suffered a brain stroke. In support of his submission, the learned counsel has invited the attention of the Court to the casualty card of Sir Ganga Ram Hospital, as well as, the MRI report from the MRI Centre, Sir Ganga Ram Hospital.

11. He submits that on the date when the petitioner could not appear



which led to the issuance of NBW, the petitioner was suffering from Dengue. To buttress his contention the learned counsel has invited the attention of the Court to the medical documents attached with the present petition.

12. He submits that insofar as the finding of the learned Metropolitan Magistrate that bail bond of the petitioner / accused had to be forfeited is incorrect in as much as no bail bond was forfeited and only penalty of Rs. 50,000/- was imposed.

13. He places reliance on the decision of this Court in *JSB/Cargo and Freight Forwarder (P) Ltd. V. State, 2021 SCC OnLine Del 5425*, to contend that the provisions of Section 143A of NI Act is directory and not mandatory and further the Trial Court will exercise the jurisdiction under Section 143A of NI Act where the accused had protracted the proceedings, which is not the situation in the present case.

14. In view of the above, issue notice to the respondent by all permissible modes, returnable on 21.08.2024.

15. Considering the submissions of the learned counsel for the petitioner, which *prima facie* appears to have substance, the operation of the impugned order is stayed till the next date.

VIKAS MAHAJAN, J

MAY 15, 2024/N.S. ASWAL