



\$~59

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

+ **CRL.REV.P. 658/2022**

MUKESH SHUKLA

..... Petitioner

Through: Mr Satish Kumar, Adv.

versus

JITENDER SINGH & ANR.

..... Respondents

Through: Mr Aashneet Singh, APP for State /
R-2.

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

% **10.10.2022**

CRL.M.A. 20412/2022

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

CRL.REV.P. 658/2022

This is a petition seeking quashing of order dated 22.05.2019 and 23.05.2019 passed by the learned MM, North West District, Rohini Courts, New Delhi in CC No. 7358/2016 and order dated 26.08.2022 passed by the learned ASJ-02, North West District, Rohini Courts, New Delhi in Appeal No. 123/2019. By the order of the learned MM, the petitioner has been found guilty of the offence under Sections 138 of the Negotiable Instruments Act and has been directed to deposit Rs. 40 lakhs as compensation.

Mr Satish Kumar, learned counsel has drawn my attention to a police complaint made by the petitioner on 01.02.2010 wherein he had stated that two cheques i.e. the cheques in question have been stolen from his office. He further states that the learned Metropolitan Magistrate has totally failed to appreciate the evidence. Why a loan of Rs. 20 lakhs would be given to a



total stranger by a person who himself in his ITR shows his monthly income to be approximately Rs. 20,000/- per month. He further submits that except the cheques, there is no document to show any loan having been advanced to the petitioner. He has drawn my attention to the cross-examination of the respondent wherein the respondent has stated that he had Rs. 10 lakhs in cash and the balance Rs. 10 lakhs he had arranged from his friends. He has further drawn my attention to the cross-examination which reads as under:

“I have not inquired from the parents of the accused nor any guarantee was undertook by me from his parents. Except the words of Manmohan Singh I have no concerned to the accused at the time of advancing loan. I have not inquired from the accused whether he is a student or not in the year 2010. I did not inquired from the accused regarding the capacity to return the loan amount after one month. It is wrong to suggest that as I have not inquired anything about the accused as I have not advanced any loan to the accused. I have not seen any rent agreement of the shop in favour of the accused. I have also not seen any license of trading in favour of the accused. I have also not inquired whether the accused is having bank account or not.”

He further submits that even the learned ASJ has also not appreciated any of the aforesaid contentions in the impugned judgment and order dated 26.08.2022.

For the aforesaid reasons, issue notice.

Mr Aashneet Singh, learned APP accepts notice on behalf of the State/Respondent No.2.



Let notice be issued to the respondent No.1 by all modes including electronic, on the petitioner taking requisite steps within one week, returnable on 13.02.2023.

CRL.M.(BAIL) 1216/2022

This is an application seeking suspension of sentence and payment of compensation as ordered vide order dated 22.05.2019, 23.05.2019 and 26.08.2022.

In the present case, prima facie I am of the view that the testimony of the respondent is lacking on numerous fronts. It is indeed difficult to comprehend as to how the respondent would have advanced a loan of an amount of Rs. 20 lakhs without knowing the petitioner, without verifying his antecedents and without verifying his capacity to repay. It is further difficult to comprehend as to why he would advance a loan to a stranger. The respondent has also not been able to name his friends who had advanced the loan of Rs. 10 lakhs to him.

For the aforesaid reasons, issue notice.

Mr Aashneet Singh, learned APP accepts notice on behalf of the State/Respondent No.2.

The sentence and payment of compensation as ordered vide order dated 22.05.2019, 23.05.2019 and upheld vide judgment dated 26.08.2022 are stayed till the next date of hearing.

List on 13.02.2023.

JASMEET SINGH, J

OCTOBER 10, 2022/sr

[Click here to check corrigendum, if any](#)