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

+ CRL.REV.P. 30/2015 & Crl.M.A.704/2015, Crl.M.A.32111/2018,
Crl.M.A.32112/2018

SALONY JOHAR Petitioner

Through: Ms. Deeksha Nayyar, Advocate.

versus

STATE (NCT OF DELHI) & ANR Respondents

Through: Ms.Meenakshi Dahiya, APP.
Mr. Santosh Kumar, Advocate for
respondent No.2.

CORAM:

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

ORDER

% **06.02.2019**

1. Petitioner impugns order dated 03.12.2014 whereby the Appellate Court rejected the appeal of the petitioner impugning order on conviction dated 18.12.2013 and order on sentence dated 19.12.2013. Petitioner was sentenced to undergo SI for a period of six months and to pay a fine of Rs.4 lakhs for the offence under Section 138 of the Negotiable Instruments Act.

2. Learned counsel for the petitioner submits that the petitioner had taken a loan of Rs.1,50,000/- and given a blank cheque to secure the loan and the respondent/complainant had incorrectly filled the amount of Rs.3,25,000/-.

3. It is further submitted that the Trial Court as well as the Appellate Court erred in not appreciating that complainant had not

been able to establish that any loan of Rs.3,25,000/- was ever disbursed to the petitioner.

4. Further it is contended that out of an amount of Rs.1,50,000/-, Rs.50,000/- had been returned which was not accounted for by the complainant. Further it is submitted that during the pendency of the appeal, there were settlement talks on which parties had agreed for settlement of the entire claim at Rs.3,00,000/- and petitioner had paid Rs.1,50,000/- to the complainant.

5. Further it is contended that petitioner today is insolvent and has already filed a petition under The Provincial Insolvency Act, 1920 for being declared as an insolvent in which the claim of the respondent/complainant has also been shown. Learned counsel submits that petition has already been admitted and it is at the stage of evidence and respondent is also represented in those proceedings.

6. Learned counsel for the respondent submits that the respondent has duly established that Rs.3,25,000/- was paid and the cheque was issued for repayment of the loan amount. However, learned counsel for the respondent admits that a sum of Rs.1,50,000/- was paid at the appellate stage, however, since the settlement was not fully complied with, the proceedings continued.

7. List for consideration on 23.07.019.

8. The digital copy of the Trial Court as well as the Appellate Court be requisitioned.

9. In the meantime, subject to petitioner furnishing a bail bond in the sum of Rs.10,000/- with one surety of the like amount to the satisfaction of the Trial Court, remaining sentence of the petitioner shall remain suspended during the pendency till the next date of hearing.

10. Order *dasti* under the signature of the Court Master.

SANJEEV SACHDEVA, J

FEBRUARY 06, 2019

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