



2025:DHC:872



\$~15

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

% *Date of decision: 3rd February, 2025*

+ **CRL.M.C. 2931/2018**

MANOHAR LAL
S/o Sh. Tillu Ram

.....Petitioner

Through: Mr. Vijay Kinger, Mr. Ashwani
Gehlot and Ms. Roopa Nagpal,
Advocates.

versus

1. THE STATE (GOVT. OF NCT OF DELHI) ..Respondent No.1
2. Sh. ANIL KUMAR GUPTA ..Respondent No.2

Through: Ms. Meenakshi Dahiya, APP for the
State.

CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T (oral)

1. Petition under Section 482 of the Code of Criminal Procedure, 1973 (*hereinafter referred to as 'Cr.P.C'*) has been filed on behalf of the Petitioner, Manohar Lal, for quashing of the Order dated 17.03.2018 passed by the learned ASJ, who has declined to initiate the contempt proceedings against the Respondents, for breach of a Settlement dated 04.12.2015, in Complaint Case under Section 138 of the Negotiable Instrument Act, 1881



2025:DHC:872



(for short 'N.I. Act').

2. It is submitted in the Petition that the Petitioner had filed the Complaint under Section 138 of the N.I. Act, in respect of 07 cheques for a total sum of Rs.41,00,000/- vide CC No. 142/2015. During the pendency of the case, with the intervention of common friends, the parties entered into a Memorandum of Understanding (MOU) dated 04.12.2015. As per the terms of the Settlement, the cheques amount were of total Rs.41,00,000/- but under the Settlement, the parties had agreed for payment of Rs.27,00,000/-. It was further agreed that in case of default, a penalty of Rs.20,00,000/- shall be paid. The parties i.e. the Petitioner and the Respondent gave statements in the Court on 07.12.2015, confirming the Settlement and also that they shall remain bound by the terms of the Settlement. Consequently, the MOU was exhibited as Ex.CWA2 (OSR) and the Complaint Case was compounded and the Respondent/accused acquitted.

3. It is further submitted in the Petition that following the disposal of the Complaint Case, the Respondent honoured the Agreement partially and made payment of Rs.2,00,000/-. However, thereafter he failed to honour the remaining part of the Settlement, despite repeated requests. A Legal Notice/Demand Notice dated 09.07.2016, was sent despite which the Respondent failed to pay the settled amount.

4. Therefore, the Contempt Petition was filed in respect of the breach of Agreement dated 04.12.2015 and for the fraud committed on behalf of the Respondent. However, the said Contempt Petition was dismissed by the learned ACMM, Delhi vide Order dated 11.05.2017.

5. A Revision was preferred against the said Order before the learned



ASJ, who also dismissed the same *vide* Order dated 17.03.2018.

6. The present Petition has been filed, to challenge the Order of learned ASJ, with the request that the Contempt proceedings be initiated against the Respondent.

7. **Submissions heard and the record perused.**

8. This Court in a detailed Judgment titled as 'Dayawati vs. Yogesh Kumar Gosain', in CRL. REF. No. 1/2016, decided on 17.10.2017, had detailed that the procedure to be followed in cases of Settlement under Section 138 of the N.I. Act. It was laid down that while the Magistrate is recording the Settlement, he should also ensure strict compliance with the guidelines and the principles laid down by the Apex Court in Damodar S. Prabhu vs. Sayed Babalal H, (2010) 5 SCC 663 and Madhya Pradesh State Legal Services Authority vs. Prateek Jain, (2014) 10 SCC 690. It was also noted that while accepting the Settlement, it should be clearly stipulated in the Order that in case of default by either party, the amount agreed to be paid in the Settlement, would be recoverable, in terms of Section 431 and 421 of Cr.P.C.

9. In the present case, the terms of the Settlement specifically recorded that in case the Respondent defaulted in making the payments as contemplated under the Agreement, he shall be liable to pay a penalty of Rs.20,00,000/-. In the Settlement, the penalty has already been agreed between the parties.

10. Therefore, while Contempt may not be the appropriate remedy but the Petitioner is at liberty to approach the Court of learned Metropolitan Magistrate, under Section 421 and 431 of Cr.P.C., to seek implementation of



2025:DHC:872



the Settlement/recovery of the amount, as agreed by the parties. It is hereby clarified that the time taken *herein* shall be taken into consideration while considering the Application under Section 421/431 of Cr.P.C.

11. The Petition is disposed of accordingly.

(NEENA BANSAL KRISHNA)
JUDGE

FEBRUARY 3, 2025/RS