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%. 08.10.2010

Present: Ms. Mahalakshmi Param and Mr. G. Balaji, Advs. for the petitioners.

+Crl. M.A. 16248/2010

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Allowed, subject to all just exceptions.

Application stands disposed of.

Crl. M.C. 3251/2010 & Crl. M.A. 16249/2010 (Stay)

Petitioner has filed this petition under Section 482 of the Code of Criminal Procedure for quashing of complaint under Section 138 of the Negotiable Instruments Act, 1881 (for short hereinafter referred to as "the N.I. Act") filed by the respondent, which is pending before Metropolitan Magistrate, New Delhi. It is contended that the cheques in question were issued towards the security and which fact has been duly acknowledged by the respondent in the agreement dated 19th September, 2009. I find that in the complaint, specific averments have been made that the cheques had been issued in discharge of debt. Whether the cheques had been issued towards the security or in discharge of any debt is subject matter of Trial. In *Rajesh Agarwal & Ors. vs. Y.K. Goel* 2010 171 DLT 51, a Single Judge of this Court has held that a complaint under Section 138 of the N.I. Act has to be tried by following summary procedure. Thus, it is open for the petitioner to

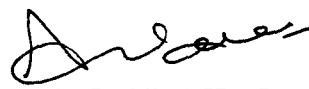
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take up this defence before the Trial Court and lead evidence in this regard.

For the foregoing reasons, I do not find any justification to quash the complaint at this premature stage, in exercise of inherent jurisdiction of this Court.

Petition is dismissed.



A.K. PATHAK, J.

October 08, 2010
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