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

+ CRL.M.C. 2566/2016

BHARDWAJ GENERAL STORE Petitioner

Through Mr.Rajeev Sharma, Adv.

versus

ADVANCE MARKETING & TRADING LTD. Respondent

Through

CORAM:

HON'BLE MR. JUSTICE P.S.TEJI

O R D E R

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25.07.2016

Crl.M.A. 11032/2016 (Exemption)

Application is allowed subject to just exceptions.

Crl.M.C. 2566/2016

The present petition under Section 482 Cr.P.C. has been filed by the petitioner for setting aside the order dated 29.03.2016 passed by the Court of Session whereby the revision petition filed by the petitioner was dismissed. The revision petition was filed against the order of the Trial Court dated 25.08.2014 whereby the complaint filed by the petitioner was dismissed and the respondent was discharged.

Perusal of order dated 25.08.2014 passed by the Trial Court shows that since the petitioner/complainant had not adduced evidence despite repeated opportunities and did not pay the cost, the pre-charge evidence was closed and in the absence of any evidence against the accused, he was discharged. Relevant portion from the order reads as

under:

“Record perused. Above mentioned observation as passed by this Court were given in the connected case bearing no.2285/1/13. Nevertheless both the matters are cross cases to one another and it has been directed by this Court that both be tried simultaneously. Further more as pointed out by Ld. Counsel for accused, the Hon’ble Supreme Court has given a similar opinion. Otherwise also at the conclusion of trial of both the cases, on the basis of evidence lead by both the parties, it can be decided as to whose claim is true and reliable. Hence, the submissions of Ld. Counsel that evidence cannot be led at this stage is not sustainable. As per the record, repeated opportunities have been given to the complainant to lead evidence in the present matter. Since 02.12.2013, it has been again and again directed that the complainant appear and give his evidence but in vain. On the last date, a cost of Rs.500/- was also imposed but the same has also not been paid. In view of the same, Court is not inclined to adjourn the matter any further. In view of the same, pre-charge evidence is closed.

In the absence of any evidence against the accused on the basis of which he can be charged, he is discharged from the present case.”

Perusal of record and the impugned orders reveal that more than enough opportunities were granted to the petitioner/complainant to adduce evidence, but he did not lead any evidence in support of its case. The petitioner was called again and again since 02.12.2013

uptil the date of passing the order dated 25.08.2014 to adduce evidence, but he chose not to lead any evidence. Even the cost of Rs.5,000/- imposed by the Trial Court was not paid by the petitioner.

In view of the above mentioned facts and circumstances, this Court does not find any illegality or infirmity in the impugned orders. There is no merit in the present petition.

The petition is accordingly dismissed.

P.S.TEJI, J

JULY 25, 2016

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