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

+ **CRL.M.C. 4613/2016**

DR M C SAXENAGROUP OF COLLEGES THR.

ITS CHAIRMAN DR. M C SAXENA

..... Petitioner

Represented by: Mr. Z.U. Khan, Mrs. Taiba
Khan and Mr. Sulaiman Mohd.
Khan, Advocates.

versus

M/S AHUJA BOOK COMPANY P.LTD.

..... Respondent

Represented by: None.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

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09.12.2016

Crl. M.A. No. 19262/2016 (Exemption)

Allowed, subject to all just exceptions.

CRL.M.C. 4613/2016 and Crl. M.A. No. 19261/2016 (Stay)

1. By the present petition the petitioner challenges the order of summoning dated 26th February, 2016 whereby he has been summoned in complaint case No.894/2016 for offence punishable under Section 138 of the Negotiable Instruments Act, 1881.

2. The allegations in the complaint against the petitioner are that the petitioner placed an order for purchasing books from the respondent/complainant company at Delhi on credit basis and in this regard various bills/invoices were placed on record along with the computerised running ledger account w.e.f. 1st February, 2014 to 20th January, 2016. It

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has been further stated that towards adjustment of part payment, the petitioner gave a cheque of ₹10 lakhs drawn on Bank of India, Mahanagar Branch, Lucknow and it was assured that on presentation the same would be encashed. However, the cheque was returned back as dishonoured with the endorsement “payment stopped by drawer” vide return memo dated 12th January, 2016. Despite service of legal demand notice the petitioner failed to make payment.

3. The only ground on which quashing of the complaint and the proceedings pursuant therein is sought is that the claim of the petitioner was that the books supplied were in damaged condition and the petitioner had requested the complainant to replace the stocks.

4. This is an issue which could be gone into only on merits during trial and the defence of the petitioner cannot be looked into in a petition under Section 482 Cr.P.C.

5. Petition and application are dismissed.

MUKTA GUPTA, J.

DECEMBER 09, 2016
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