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

+ **CRL.M.C. 350/2017**

RAJENDER PRASHAD GARG

..... Petitioner

Represented by: Mr. Rajiv Kr. Deora, Mr.
Santraw Bhati, Advs.

versus

HARI SHANKAR AGGARWAL

..... Respondent

Represented by:

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

27.01.2017

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Crl.M.A. 1535/2017

Exemption allowed subject to just exceptions.

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A complaint was filed against the petitioner by the respondent alleging that in the year 2003 the petitioner had done some work for cable laying in the partnership with the complainant. On account of the work done a total sum of ₹49,02,856/- was due towards the petitioner, however he failed to pay the said amount. After repeated request, the petitioner in 2012 handed him two cheques bearing No. 032374 and 032375 for a total sum of ₹49,02,856/- drawn on South Indian Bank Limited and assured that sufficient money would be available after first week of February, 2012 when the cheques if presented would be honoured. When the respondent

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presented the said cheques, they were returned unpaid with the remarks account closed. Despite a legal notice since money was not paid the respondent filed a complaint under Section 138 of the Negotiable Instruments Act where the petitioner has been summoned.

By this petition the petitioner seeks quashing of the said complaint case No. 338/2016 titled as Hari Shankar Agarwal Vs. Rajender Prasad. The plea of the petitioner is that those cheques were lost and in this regard he had lodged a NCR on 3rd January, 2004.

A perusal of the NCR lodged reveals that the petitioner claimed that he had kept some cheques in his bag which were lost when he went to District Centre. Neither the number of the cheques nor how many blank signed cheques have been lost, has been mentioned in the said NCR. These would be issues of trial and merely on this plea that a NCR had been lodged, this Court cannot quash complaint case No. 338/2016 titled as '*Hari Shankar Agarwal Vs. Rajender Prasad*' and the proceedings pursuant thereto on the ground that the same are vitiated by malafides.

MUKTA GUPTA, J.

JANUARY 27, 2017
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