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

+ CRL.L.P. 64/2017

SURINDER ARORA

..... Petitioner

Through: Mr. Ajay Fatyal, Advocate

versus

STATE (NCT OF DELHI) & ANR

..... Respondent

Through: Ms. Radhika Kolluru, APP

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

ORDER
01.02.2017

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Crl. M.A. No. 1845/2017

Exemption allowed, subject to all just exceptions. The application stands disposed of.

CRL.L.P. 64/2017

The petitioner has preferred the present leave petition to seek leave to appeal against the order dated 26.09.2016 passed by the learned MM (E), Karkardooma Court in CC 55307/2016, whereby the respondent/ accused has been acquitted of the offence u/s 138 of the Negotiable Instrument Act.

There are two aspects which arise from the impugned judgment. The first is with regard to the raising of an adverse inference against the complainant since the complainant did not furnish the bills or ledger

account. In this regard, the submission of counsel for the petitioner is that the accused had admitted the receipt of goods and thus there was no need for the complainant to furnish the bills or ledger account to establish the supply of goods in respect whereof cheque in question had been issued.

The second aspect is with regard to the competence of the witness produced by the complainant. The complainant had led the evidence of a special attorney Sourabh Bhatnagar. Though the special attorney claimed that he was employed with the complainant for 14-15 years as sales executive and that he had known the accused firm for the last 5-6 years, in his cross examination he had also stated "*It is correct to suggest that I have no personal knowledge of the present case*".

The submission of counsel for the petitioner is that the intent of the witness CW-1 was only to convey that he was not personally involved in the present case.

The Trial Court has acquitted the accused on the aforesaid two aspects.

Even though there may be some merit in the submission of counsel for the petitioner on the first aspect taken note of herein above, in my view, the impugned judgment cannot be faulted insofar as the second aspect is concerned.

In these circumstances, I find no merit in this petition. Dismissed.

VIPIN SANGHI, J

FEBRUARY 01, 2017

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