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

\+ CRL.L.P. 124/2017

RENU SHARMA

..... Petitioner

Through: Mr. Atul Anand, Advocate.

versus

STATE & ANR.

..... Respondents

Through: Mr. Mukesh Kumar, APP for the State.

CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI

O R D E R

% **06.03.2017**

Crl. M.A. No. 3743/2017

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

CRL.L.P. 124/2017 and Crl. M.A. No. 3742/2017 (to seek condonation of 79 days delay in filing the leave petition)

The petitioner has preferred the present leave petition to seek leave to appeal against the judgment dated 14.10.2016 passed in CC No.527/2014 titled *Renu Sharma Vs. A. Garg & Another*. By this judgment, the respondent/ accused has been acquitted in the aforesaid case under Section 138 of the NI Act initiated by the petitioner/ complainant.

The complainant claimed to have advanced a personal loan of Rs.5,50,000/- to the accused, in return whereof, the aforesaid cheque for Rs.5,50,000/- was allegedly issued by the accused. Since the cheque was dishonoured upon presentation, after issuance of statutory notice, the complaint was instituted.

The defence taken by the accused upon being summoned was that she had taken a loan of Rs.50,000/- only from the complainant on interest. The cheque in question had been issued to the complainant as a blank signed security cheque along with two other cheques. The accused claimed to have repaid the entire amount of the said loan to the complainant and that no liability was outstanding. The amount was repaid in cash on daily basis but the accused did not have any receipts regarding the same.

The complainant examined herself as CW-1. Pertinently, during her cross-examination, the complainant stated that the accused sought the loan of Rs.5,50,000/- in November 2014. She further stated that the cheque in question was given sometime in the year 2015. The Trial Court notes that the cheque was, however, dated 15.03.2014. On this basis, the Trial Court has concluded that the complainant has contradicted herself by claiming that the loan had been sought in November 2014 and the cheque had been issued sometime in the year 2015, whereas the same is dated 15.03.2014. Pertinently, the cross-examination of the complainant to the aforesaid effect was recorded on 31.03.2016.

The submission of learned counsel for the petitioner is that the petitioner is a house-wife and she made a mistake with regard to the time period when the loan was sought, advanced and the aforesaid cheque issued.

The impugned judgment is dated 14.10.2016. Even if this submission were to be accepted, there is nothing to show that the petitioner approached the Trial Court with an application to lead further evidence to clarify the position. In my view, the Trial Court on account of the aforesaid glaring inconsistency correctly held that the defence of the accused was probablised, even though the accused was not able to lead any evidence with regard to the alleged advancement of loan of only Rs.50,000/- on interest, which had allegedly been repaid and that the cheque in question along with two other cheques had been issued at the time of obtaining the loan of Rs.50,000/- from the complainant. The impugned judgment, therefore, does not call for any interference.

Dismissed.

VIPIN SANGHI, J

MARCH 06, 2017

B.S. Rohella