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

\+ CRL.L.P. 158/2018

SANDHYA ..... Petitioner

Represented by: Mr. Khushbir Singh, Advocate.

versus

RITA KHURANA ..... Respondent

Represented by: None.

CORAM:
HON'BLE MS. JUSTICE MUKTA GUPTA

O R D E R

% **08.03.2018**

Crl.M.A. No. 4343/2018 (Exemption)

Allowed, subject to all just exceptions.

Crl.M.B. No. 404/2018

By this application, the petitioner seeks suspension of the impugned order till finalisation of the appeal.

Leave to appeal is yet to be granted thus no suspension of the impugned order is granted. Application is dismissed.

CRL.L.P. 158/2018

By this petition, the petitioner seeks leave to appeal against the impugned judgment dated 9th January, 2018 acquitting the respondent for offence punishable under Section 138 of the Negotiable Instrument Act.

In the complaint, petitioner alleged that the respondent approached the complainant for a friendly loan of ₹6 lakhs and assured the petitioner that she would repay the same in 2013, thus she issued a post dated cheque of the said amount in discharge of the liability.

The cheque when present was dishonoured with the remark *'funds insufficient'* on 24th September, 2013. The petitioner therefore issued legal demand notice through her counsel, however, the respondent failed to make the payment in the stipulated time of 15 days.

In the evidence the complainant exhibited the cheque, legal demand notice and the return memo, however, in respect of the evidence relating to legal liability two documents purported to be the loan agreement were produced however, they could not be exhibited as they were not in original.

Learned counsel for the petitioner states that no time was granted to the petitioner to produce the original documents.

On a query put by this Court as to whether petitioner filed an application to lead additional evidence and exhibit the said original documents, the answer is in the negative.

As a matter of fact after the opportunity to cross-examine the petitioner was closed, respondent filed an application Section 311 Cr.P.C. and petitioner was recalled for cross-examination when copies of the passbook of the two bank accounts in the name of the petitioner were also placed on record and exhibited as Ex. CW-1/A1 & Ex. CW-1/A2. Even at that stage the original loan agreements were not exhibited. From the copy of the passbook of the two bank accounts the petitioner could not satisfy the capacity to advance the loan. Thus, this Court finds no error in the impugned judgment. Leave to appeal is declined. Petition is dismissed.

MUKTA GUPTA, J.

MARCH 08, 2018/'yo'