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

+ CRL.M.C. 923/2017 and Crl. M.A. no. 3872/2017

M/S PIDILITE INDUSTRIES LTD

..... Petitioner

Through Mr. Akshat Gupta and Mr. Swaroop
George, Advs. with Mr. Sachin
Kumar Sharma, Authorised
Representative

versus

STATE (GOVT OF NCT DELHI) & ANR

..... Respondents

Through Mr. Izhar Ahmad, APP
Mr. Prasun Kumar and Mr. K.P.
Gautam, Advs. for respondent no. 2

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

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14.11.2018

Petitioner is aggrieved by the order dated 27th January, 2017 passed by the learned Metropolitan Magistrate, Delhi, whereby two applications of the petitioner have been dismissed. One application was for placing on record four documents, that is, true copy of email dated 14th June, 2010, true copy of ledger of petitioner company pertaining to account of respondent no. 2, true copy of invoices and balance confirmation letter signed by respondent no. 2. Second application was for recalling CW1 to prove these

documents. Trial court has dismissed both the applications. Petitioner had stated in the applications that documents were not traceable at the time of filing the complaint. These documents had been traced out subsequently and immediately thereafter application was filed for placing such documents on record. Trial court was not impressed by this explanation. Trial court held that CW1 has already been cross-examined, inasmuch as respondent no. 2 (accused) had also been examined. However, it is not in dispute that witnesses of respondent no. 2 had yet to be cross-examined. Petitioner has specifically alleged in the complaint that there was business transaction between the petitioner and respondent no. 2. Pursuant to the orders placed by respondent no. 2, materials were supplied from time to time on credit basis. Invoices were raised. In terms of the invoices raised by the petitioner, respondent no. 2 had issued two cheques (details whereof have been given in the complaint). Upon presentation, cheques were returned dishonoured with the remarks "funds insufficient". In view of this categorical assertion, in my view, the documents, which are now sought to be placed on record, assume importance. The documents are necessary for proving the case of the petitioner, more so when respondent no. 2 has disputed his liability to pay the cheque amount. The plea of respondent no.

2 regarding delay can be compensated in terms of costs. Accordingly, present petition is allowed and the applications filed by the petitioner before the trial court are allowed, subject to costs of Rs.25,000/-. It is made clear that only one opportunity will be granted to the petitioner by the trial court to re-examine CW1 only on the aspect of the aforesaid documents. In view of recalling of CW1 in the witness box, respondent no. 2 will also have the rights to re-enter in the witness box for his further examination.

Petition is disposed of in the above terms. Miscellaneous application is disposed of as infructuous.

A.K. PATHAK, J.

NOVEMBER 14, 2018

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