

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

% Decided on: 10th January, 2018

+ **CRL.L.P. 318/2016**

M/S K & CO.

..... Petitioner

Represented by: Mr. Davinder N. Grover, Ms.
Vijay Laxmi Grover and Mr.
Samant Singh, Advocates.

versus

M/S PAAM PHARMACEUTICALS
(DELHI) LTD. & ORS

..... Respondents

Represented by: Mr. Dinesh Monga, Advocate
for Mr. Atul Sahi, Advocate for
respondent Nos. 2 to 3.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

MUKTA GUPTA, J. (ORAL)

1. By the present petition the petitioner seeks leave to appeal against the impugned judgment dated 30th March, 2016 acquitting the respondents for offence punishable under Section 138 of the Negotiable Instruments Act, 1881.
2. The petitioner filed a complaint before the learned Trial Court in which summons were issued to the respondents. It is the case of the petitioner that on appearance, the respondents talked about settlement of the matter however, nothing happened and the trial continued lingering on. As the petitioner failed to lead its post summoning evidence despite numerous opportunities from 20th April, 2005 to 25th February, 2014 the learned Trial Court closed the complainant's evidence on 25th February, 2014. The matter was listed on 14th March, 2014 for the statement of the accused and was adjourned to 27th March, 2014 when none appeared for the petitioner despite

repeated calls. The learned Trial Court renotified the complaint on 15th April, 2014 when again none appeared for the complainant and thus the complaint was dismissed for non-prosecution.

3. The order dated 15th April, 2014 dismissing the complaint for non-prosecution was set aside by this Court in Crl. L.P. No 402/2014 filed by the petitioner on the ground that the non-appearance was on account of the mistake on the part of the counsel appearing on behalf of the petitioner as was evident from the diary of the learned counsel. The matter was thereafter listed on 2nd February, 2016 before the learned Metropolitan Magistrate to proceed in accordance with law.

4. Though the petitioner challenged the order dated 15th April, 2014 dismissing the complaint for non-prosecution by filing Crl. L.P. No. 402/2014 which was allowed on 6th January, 2016 by this Court, the petitioner failed to challenge the order dated 25th February, 2014 closing the evidence of the complainant/petitioner. The said order has not been challenged till date. Thus, on remand the learned Trial Court acquitted the accused since no evidence has been led by the complainant/petitioner in his post summoning evidence despite numerous opportunities. In view of the fact that the petitioner has no evidence to prove its case, this Court finds no error in the judgment dated 30th March, 2016 acquitting the respondents.

5. Petition is accordingly dismissed.

6. Trial Court record be sent back.

(MUKTA GUPTA)
JUDGE

JANUARY 10, 2018
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