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

+ **CRL.L.P. 481/2018**

SANDEEP SONI

..... Petitioner

Represented by: Ms.Yashmina Sharma, Advocate
versus

RAVI KANT

..... Respondent

Represented by: None

+ **CRL.L.P. 482/2018**

SANDEEP SONI

..... Petitioner

Represented by: Ms.Yashmina Sharma, Advocate
versus

RAVI KANT

..... Respondent

Represented by: None

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

% **27.07.2018**

CrI.M.A.No.28666/2018 in CrI.L.P.No.481/2018

CrI.M.A.No.28673/2018 in CrI.L.P.No.482/2018

Allowed subject to just exceptions.

CrI.M.A.No.28665/2018 in CrI.L.P.No.481/2018

CrI.M.A.No.28672/2018 in CrI.L.P.No.482/2018

For the reasons stated in the applications, delay of 315 days in filing the leave to appeal petitions is condoned.

Applications are disposed of.

CrI.L.P.Nos.481/2018 & 482/2018

1. By these two leave petitions, the petitioner challenges the impugned judgments dated 30th June, 2017 in the two complaint cases No.4992001/2016 and 4992002/2016 titled as Sandeep Soni Vs. Ravikant

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Sharma.

2. The allegations of the complainant in the two complaints are that the respondent requested him for grant of loan of ₹9 lakhs each which the complainant lent to him. For re-payment of the loan, respondent issued 2 cheques of ₹9 lakhs each bearing numbers 000116 and 000117 drawn on Kotak Mahindra Bank, Harpool Singh Market, Main Dwarka, Janak Puri, Delhi. On presentation the said cheques were returned unpaid for the reason 'payment stopped' vide the return memos dated 30th September, 2014. The petitioner issued a demand notice dated 11th October, 2014 and sent the same through speed post demanding payment. It is the case of the petitioner that despite service of notice, the accused failed to pay the two cheques' amount in 15 days, hence the complaints.

3. One of the main reasons for acquittal of the respondent vide the impugned judgments is that the legal demand notice was not served upon the respondent.

4. One of the main defence of the respondent was that the two legal demand notices were not served upon him. Admittedly the legal demand notices were sent at the address RZ-45, C/4, Raj Nagar, Palam Colony, New Delhi – 110045 which was the address mentioned in service through speed post and also the two complaints filed. In the complaint cases when summons were issued to the respondent, twice the reports were received that the address was incomplete and thus service could not be effected. Thereafter the petitioner furnished the complete address of the respondent mentioning the fact that the respondent lived in Part II of Raj Nagar and fresh summons were issued in the two complaints which were duly served.

In support of the fact that the address on which the legal notices were sent was incomplete, respondent examined the two process servers as DW-3 and DW-4 who proved that the address mentioned in the complaint initially which was also the address in the two legal demand notices was the incomplete address.

5. Besides the fact that the legal demand notices were not served, other defence of the respondent was that his friend Anil had approached him for construction of project at Palam and in this connection, a meeting was fixed by Anil with the petitioner herein and one Vikas. Anil was to get a commission of ₹2,75,000/- and the respondent was required to furnish security cheques of ₹27,00,000/- in this regard. It is the case of the respondent that three cheques of ₹9,00,000/- each and one cheque of ₹2,75,000/- were given to the complainant in this regard so that the same could be incorporated in the agreement. However the agreement was never drafted and the cheques given to the petitioner were misused. Further the petitioner has also not been able to explain the source from where he arranged the loan of ₹9,00,000/- each for return whereof the cheques in question were issued.

6. The learned Trial Court though discarded the defence of the respondent with regard to the agreement and that the cheques were given as security and misappropriated however acquitted the respondent for the reason that the source of the fund having not been proved, the legal demand notices not being served and the loan transactions not being shown in the bank accounts of the petitioner entitled respondent to the benefit of doubt.

7. This Court finds no ground to come to a contrary conclusion and hold that the finding of the learned Trial Court is perverse.

8. Leave to appeal petitions are thus dismissed.

MUKTA GUPTA, J.

JULY 27, 2018/*mamta*