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

+ CRL.L.P. 484/2016

M/S GLOBAL AGENCIES

..... Petitioner

Represented by: Mr. H.K. Shekhar, Adv.

versus

M/S R K SILK MILLS (INDIA) AND ANOTHER

..... Respondent

Represented by:

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

18.01.2018

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CrI.M.A. 11718/2017

For the reasons stated in the application delay of 121 days in filing the reply to the petition is condoned.

Application is disposed of.

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The petitioner seeks leave to appeal against the judgment dated 25th April, 2016 acquitting the respondents for offence punishable under Section 138 of the Negotiable Instruments Act (in short the NI Act).

It is the case of the petitioner that respondent No.1 had engaged the petitioner and availed its services for which invoices were raised in respect whereof 6 cheques were drawn up all on Oriental Bank of Commerce, Karol Bagh in discharge of the liability of the respondent. The said cheques when presented for encashment were returned with the remarks "payments

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stopped by drawer” vide return memo dated 19th December, 2009. Despite service of legal notice the respondents failed to make the payment within 15 days. In support of its case, the complainant examined Anil Bassi as CW1 who produced 5 original cheques in question being Ex.CW-1/A1 to Ex.CW-1/A4, return memos Ex.CW-1/B1 to CW-1/B4, the copy of legal notice and registered post receipt.

The defence of the respondent No.2 was that he had issued 7 post-dated cheques including the cheques in question to the petitioner to purchase goods and since the petitioner supplied defective goods and did not replace them, despite written request he stopped the payment. It was also the case of the respondent, that the complaint was not maintainable as the cheques in question were issued in the name of M/s. Global agencies and CW-1 failed to prove that he was the sole proprietor of M/s. Global Agencies.

Admittedly, the complaint was filed by M/s. Global Agencies through its proprietor Mr. Anil Bassi. Though Anil Bassi claimed that M/s. Global Agencies was a registered proprietorship firm, however he failed to file any document as proof of proprietorship of the said firm.

Since the petitioner failed to prove the authority of the CW-1 Anil Bassi, the learned Trial Court acquitted the respondents, which impugned order cannot be said to be illegal. During the course of the present leave to appeal petition, the petitioner also sought time to file an application to lead additional evidence. However, till date the same had not been filed.

Leave to appeal petition is accordingly dismissed.

MUKTA GUPTA, J.

**JANUARY 18, 2018 /‘ga’
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