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

+ CRL.M.C. 2012/2017, CRL.M.A. 8278/2018 (stay)

SWARAN LATA

..... Petitioner

Through Mr. Lalit Kumar, Mr. Aditya Kumar
and Mr. Lal Bahadur Sahu, Advs
versus

USHA ANAND

..... Respondent

Through Mr. Rajat Bhardwaj, Adv

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

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16.10.2018

A perusal of cheque in question shows that petitioner has not signed the same. In fact, it is her husband who has signed the cheque. Petitioner is not the drawer of the cheque.

In *Aparna A Shah vs. Seth Developers Pvt. Ltd.* 2003 (8) SCC 71, Supreme Court has held that it is the drawer of the cheque who can be prosecuted under section 138 of Negotiable Instrument Act, 1881. In *Aparna A Shah (supra)* the cheque contained name of husband and wife, however, husband alone had put his signatures on the cheque. In these facts, it was held that complaint was maintainable only against the husband who was the drawer of the cheque.

This case is totally covered by the law laid down in *Aparna A Shah (supra)*. Accordingly, petition is allowed and Complaint Case No.2568/2017 titled as "Usha Anand vs. Darshan Lal & Ors." is quashed qua the petitioner (accused no.2) only.

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

A.K. PATHAK, J

OCTOBER 16, 2018

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