$~42

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

\+ CRL.M.C. 5956/2018 & & Crl.M.A. Nos.48116/2018 (for stay) & 48117-48118/2018 (for exemption)

MS. SHEELA ABHAY LODHA ..... Petitioner
Through Mr.Kirti Uppal, Sr. Adv. with Mr.B.S. Tiwari, Adv. & Mr.Mohit, Adv.

versus

STATE & ORS. ..... Respondents
Through Mr.Amit Chadha, APP for the State.

CORAM:
HON'BLE MS. JUSTICE REKHA PALLI

O R D E R

% 27.11.2018

1. Learned senior counsel for the petitioner submits that the impugned order dated 7th June, 2017, summoning the petitioner as also the subsequent order dated 13th September, 2018, issuing non-bailable warrants against the petitioner have been passed by ignoring the settled position of law that a director who has already resigned when the cause of action arises, ought not to be arrayed as an accused in a complaint case under Section 138 of the Negotiable Instruments Act, 1881. He further draws my attention to the specific averments made in ground 'L' of the petition that the entire due amount has already been paid by the Company to the complainant. However, in view of the objection raised by Mr.Amit Chadha, learned APP that the impugned order is revisable under Section 397 Cr.P.C., learned

senior counsel for the petitioner seeks leave to withdraw the present petition with liberty to approach the learned Additional Sessions Judge. He, however, submits that in view of the fact that non-bailable warrants have been issued against the petitioner, protection may be given to him for a reasonable time to approach the learned ASJ.

2. While granting leave to the petitioner to withdraw the present petition along with the pending applications with liberty to take the appropriate legal remedies, it is directed that keeping in view the facts as noted hereinabove, no coercive action in terms of the order dated 13th September, 2018 be taken against the petitioner, for a period of two weeks.

Dasti.

REKHA PALLI, J

NOVEMBER 27, 2018/aa