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

+ **CRL.L.P. 60/2019**

CHINTU KUMAR

..... Petitioner

Represented by: Mr.Jai Vats, Advocate

versus

ARUN CHAUHAN

..... Respondent

Represented by: None

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

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17.01.2019

CrI.M.A.No.900/2019

Allowed subject to just exceptions.

CrI.L.P.No.60/2019

1. Petitioner is aggrieved by the judgment dated 18th October, 2018 whereby the learned Trial Court dismissed the complaint filed by the petitioner being CC No.468579/2016 under Section 138 of the Negotiable Instruments Act. The two primary grounds on which the learned Trial Court acquitted the respondent was that there was neither any document nor contract between the parties to show that the transaction in question took place and even the terms and conditions of the oral agreement between the parties was not proved.

2. Learned counsel for the petitioner states that the petitioner filed an e-mail which was not considered by the learned Trial Court which was the

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admission of the respondent as to liability. In para 10B(B7) of the impugned order, the learned Trial Court has dealt with this issue as under:-

“10B(B7). As far as plea regarding looking into the e-mail dated 07.04.2015 is concerned, when a document has not been proved as per Indian Evidence Act and has not been relied upon by either of the parties as piece of evidence during their testimonies, the same cannot be looked upon even if the same has been placed on judicial file.”

3. The finding of the learned Trial Court in the absence of the e-mail without a certificate under Section 65(B) of the Indian Evidence Act cannot be said to be erroneous.
4. Thus this Court finds no ground to grant leave to appeal.
5. Petition is dismissed.

MUKTA GUPTA, J.

JANUARY 17, 2019
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