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

+ **CRL.L.P. 311/2019**

M/S EICHER MOTORS LTD.

..... Petitioner

Through: Mr Rohit K. Aggarwal, Advocate.

versus

GURUCHARAN GAMBHIR

..... Respondent

Through: Mr Nishit Kusk, Ms Merey Hussain
and Ms Asma, Advocates.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **13.11.2019**

1. The petitioner has filed the present petition seeking leave to impugn a judgment dated 29.11.2018 passed in Criminal Complaint No.612464/2016, by the MM, Saket Courts, Delhi, whereby the respondent was acquitted of the alleged offence under Sections 499/500 of the IPC.
2. The petitioner (complainant) is a company engaged in the business of manufacturing and marketing commercial vehicles. It is stated that in the course of its business, it had sold one commercial vehicle to the respondent. The respondent had certain grievances with regard to the functioning of the said vehicle. He claimed that the said vehicle was defective. He had sent the said vehicle for repairs to the authorised workshop on numerous occasions. According to the complainant, the respondent's grievances regarding defects in the said vehicle were addressed; nonetheless, the respondent embarked upon a course of action to defame the petitioner.

3. The petitioner's complaint related to several allegedly defamatory emails that were stated to have been circulated by the respondent. The petitioner alleged that the said emails had been circulated to more than 130 persons. In addition, the petitioner claimed that the respondent had organised a protest outside its offices and had raised defamatory slogans.

4. In support of its case, the petitioner had examined only one of its employees (its Law Officer, who had deposed as CW-1). He had produced the various allegedly defamatory emails as well as photographs of the protest.

5. Concededly, he did not place on record any affidavit under Section 65B of the Indian Evidence Act, 1872. More importantly, in his examination in chief, he did not even disclose as to the source of the said emails. In his cross-examination, he was specifically asked as to how he could state that the allegedly defamatory emails were sent by the accused and he had responded that stating that the same was a matter of record. He was also asked whether he knew the email address of the accused. To this question also he also responded that the same was a matter of record.

6. Insofar as the photographs are concerned, he admitted that the accused was not visible in the said photographs. Furthermore, the Trial Court had also noted that the negatives of those photographs had not been produced. CW-1 also did not know the name of the photographer. In view of the above, the evidence led by the petitioner was insufficient to establish that the respondent had committed the alleged offence beyond reasonable doubt.

7. The Trial Court had evaluated the said evidence and concluded as above. This Court finds no infirmity with the decision of the Trial Court.

8. The present petition seeking leave to appeal against the decision is, accordingly, dismissed.

VIBHU BAKHRU, J

NOVEMBER 13, 2019
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