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

+ CRL.M.C. 4194/2016 and CrI.M.A.17467/2016

ANITA AGGARWALA Petitioner

Through: Mr. Avinash Trivedi, Adv. with
Ms. Ritika Trivedi, Adv.

versus

M/S G H TEXTILES & SAREES Respondent

Through: Mr. A.K. Pandey, Adv.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

% **25.01.2019**

On the criminal complaint (CC No.56330/2016) of the respondent, the Metropolitan Magistrate on the basis of preliminary inquiry passed order dated 17.02.2016 taking cognizance of the offence under Section 138 of the Negotiable Instruments Act, 1881 and summoning the parties in the said complaint case as an accused including the petitioner, arrayed as fourth respondent/accused, described as Director of M/s. Shyam Retails (India) Pvt. Ltd., which was reflected as first accused (company accused).

Concededly, the offence alleged in the said complaint concerns non-payment of the value of certain cheques which had been issued in December, 2015 against the account of the said company but returned unpaid upon presentation by the banker.

The petitioner's grievance is that she was neither a director of the company nor had any role to play in any of the crucial acts of commission or

omission constituting offence inasmuch as she had resigned from the position of the director of the company accused on 11.05.2013. She has placed on record (as Annexure 'P2') copy of the Form No.32, which has been downloaded from the website of the Registrar of Companies.

The counsel for the respondent, on being asked, conceded that there is no evidence to show that the petitioner had continued to be the director notwithstanding the resignation of 11.05.2013. It is not the case of the respondent that she was signatory to any of the cheques which are the subject matter of the criminal case.

In these circumstances, no criminal liability can be fastened against her under vicarious liability rule enshrined in Section 141 of the Negotiable Instruments Act, 1881. The impugned order dated 17.02.2016 passed in CC No.56330/2016, to the extent thereby the petitioner was summoned in the aforementioned case as accused, is hereby set aside.

The petition and the application filed therewith are disposed of in above terms.

R.K.GAUBA, J

JANUARY 25, 2019

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