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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.M.C. 2923/2019 & CRL.M.A. 11786-11787/2019
AVINASH CHANDRAKANT PITALE & ORS Petitioners
Through: Mr. Sanjay Gupta, Adv.

versus

CISCO SYSTEM CAPITAL(INDIA) PVT. LTD. Respondent
Through: Mr. Punit K. Bhalla, Adv.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

% **31.01.2020**

CRL.M.A. 11787/2019 (Exemption)

Exemption allowed, subject to just exceptions.

CRL.M.C. 2923/2019 & CRL.M.A. 11786/2019

The petitioner vide the present petition assails the impugned order dated 21.10.2016 of the learned MM-03 (Central), Delhi in CC No.539433/2016 under Section 138 of the Negotiable Instruments Act whereby the petitioners herein were summoned as accused in relation to the said complaint on alleged dishonour of the cheque, the cheque bearing no.023210 issued on behalf of M/s Omnitech Infosolution Ltd. of which the petitioners were stated to be directors, which was presented by the respondent for encashment on 22.06.2016, which is stated to have been given by the petitioners for repayment towards a Master Lease and Financial Agreement entered between the complainant i.e. the respondent herein and M/s Omnitech Infosolution Ltd., of which the petitioners are the directors. It has been submitted

on behalf of the petitioners that the said M/s Omnitech Infosolution Ltd. was since wound up vide order dated 18.03.2015 in Company Petition No.499/2014 of the Hon'ble High Court of Bombay and that the cheque in question stated to have been dishonoured was presented much after the said winding up order and thus in terms of the verdict in *Kusum Ingots & Alloys Ltd., etc. vs. Pennar Peterson Securities Ltd. and Ors. 2000 (1) JCC 170* and *M.L. Gupta & Anr. vs. M/s Ceat Financial Services Ltd. 2007 (1) JCC (NI) 18* as well as the aspect in question in relation to the stated liabilities qua the Master Lease and Financial Agreement by another director of M/s Omnitech Infosolution Ltd. named Mr. Atul Madanlal Himani having already been adjudicated upon by this Court in CrI.M.C.2997/2017, the matter is no more *res integra* which is not refuted fairly by the learned counsel for the respondent.

In as much as M/s Omnitech Infosolution Ltd. had been wound up prior to the presentation of the stated dishonoured cheque in question, in terms of verdict in CrI.M.C.2997/2017 dated 07.09.2018, the complaint bearing no.539433/2016 is thus quashed.

The petition is disposed of.

Copy of the order be given Dasti, as prayed.

ANU MALHOTRA, J

JANUARY 31, 2020

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