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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.L.P. 737/2018**
MRS KUMUD MISHRA

.....Petitioner

Through: Mr. Samrat Nigam, Mr. Arpita Rawat,
Mr. Nishant Singh, Advs.

versus

MRS RENU GUPTA

.....Respondent

Through: Ms. Sangeeta Chopra, Ms. Jyoti
Kashyap, Advs.

CORAM:
HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

28.11.2024

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1. This is an application under Section 378(4) Cr.P.C. seeking leave to appeal against the order dated 03.08.2018 passed by the learned MM (Central), Tis Hazari Courts, Delhi in CC No. 513070/16 wherein the complaint was dismissed and the respondent was acquitted of charges under Section 138 of Negotiable Instruments Act, 1881.

2. Mr. Nigam, learned counsel for the petitioner has drawn my attention to the observations of the Ld. MM which reads as under:

“In case, this entry is to be taken as proof to the effect that cheque in question was issued to the complainant on 15.07.2008 only, then it was the duty of the accused to explain as to what is meant by 6 [maheeno mein badalna hai]. Her failure rather her complete silence on this point also goes against her. Further, as per the accused she has taken an amount of Rs. 1,50,000/- cash from the complainant against the cheque in question bearing the date as



15.07.2008 and same was repaid upto December 2008, but she has not disclosed the mode of payment thereof. This omission on her part is material, considering that all the subsequent payments pertaining to alleged transaction were made by her by way of cheques only and same are duly reflected in her account statement Ex.DW1/2.”

3. Despite the said findings, the complaint has been dismissed on the ground that the case set up by the complainant was not trustworthy.
 4. A reply has been filed wherein it has been stated that there is a cutting on the cheque which justified the dismissal of the complaint.
 5. I am of the view that the aforesaid observations of the learned MM made in the earlier part of his order, have not been adverted to in the analysis.
 6. The issue needs consideration.
 7. For the said reasons, the application seeking leave to appeal is allowed and the appeal is directed to be numbered.
- CRL.A. /2024 (to be numbered)**
8. Since leave to appeal has been granted, let the appeal be registered and numbered. Issue notice in the appeal.
 9. Ms. Kashyap, learned counsel accepts notice for the respondent.
 10. The appeal is admitted and shall be listed in due course.

NOVEMBER 28, 2024/sp

JASMEET SINGH, J

[Click here to check corrigendum, if any](#)