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SLP(Crl.)No. 6730-6731 OF 2001

ITEM No.23

Court No. 1

SECTION IIA

A/N MATTER

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl.) No. 6730-6731/2001
(From the judgement and order dated 16/08/2001 in in CRLM 7530/01
and 7532/01 of The HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)

M/S. RAJ LAKSHMI MILLS

Petitioner (s)

VERSUS

SHAKTI BHAKOO

Respondent (s)

(with appln.(s) for stay and office report)

Date : 08/07/2002 This Petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE K.G. BALAKRISHNAN
HON'BLE MR. JUSTICE ARIJIT PASAYAT

For Petitioner (s) Mr. Nidhesh Gupta, Adv.
Mr. Naveen Singh, Adv.
Ms. S. Janani, Adv.

For Respondent (s) Mr. K.K. Mohan, Adv.
Ms. Anita Sahani, Adv.

UPON hearing counsel the Court made the following
O R D E R

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Heard counsel for the parties for 15 minutes.

Special leave granted.

The appeals are allowed and the impugned decision
of the High Court is set aside.

(D.P. WALIA)
Court Master

(V.P. TYAGI)
Court Master

(Signed Order is placed on the file)

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IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NOS. 630-631 OF 2002@@
CC

M/s. Raj Lakshmi Mills

..Appellant(s)

vs.

Shakti Bhakoo

..Respondent(s)

O R D E R@@
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Special leave granted.

The appellant had filed a criminal complaint against the respondent as well as her brother-in-law Anoop Bhakoo under Section 138 of the Negotiable Instruments Act because of dishonour of a cheque which had been issued by M/s. Sutlez Knitwears of which Anoop Bhakoo and the respondent were partners. Against the summoning order passed by the Masigtrate, the respondent filed a petition under Section 482 Cr.P.C. after the respondent's application for discharge was unsuccessful.

The High Court invoked the provisions of Section 141 of the Negotiable Instruments Act and came to the conclusion that as the respondent was not incharge or responsible for the conduct of the business, therefore the order summoning her was bad in law.

We are of the opinion that at the stage of summoning when evidence was yet to be led by the parties, the High Court could not on an assumption of facts come to a finding of fact

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that the respondent was not responsible for the conduct of the business. On this ground alone, these appeals are allowed and the impugned decision of the High Court is set aside.

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.....CJI

.....J.
(K.G. BALAKRISHNAN)

.....J.
(ARIJIT PASAYAT)

New Delhi;
July 8, 2002.