

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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**CRM-40862-2019 in/and
CRM-A-2638-MA-2017
Date of Order:08.01.2020**

Aftab Khan

..Appellant

Versus

Salim Khan

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Rohit Rana, Advocate, for
Mr. Kunal Dawar, Advocate,
for the applicant-appellant.

ANIL KSHETARPAL, J(Oral)

Application is allowed. Appeal is restored to its original number.

With the consent of learned counsel for the appellant, appeal is taken on Board for final disposal.

Leave to appeal has been sought against the judgment of acquittal passed by learned Judicial Magistrate Ist Class, dismissing complaint under Section 138 of the Negotiable Instrument Act, 1881. Learned court has found that there is no document except the cheque in question to prove that Rs.20,00,000/-was advanced, as is being alleged by the appellant.

Appellant admittedly is a poor person residing in Jhuggi erected on the government land and he is not paying rent for the above said Jhuggi.

With these findings, the court has held that the presumption under Section 139 of the Negotiable Instrument Act, 1881 stands rebutted by preponderance of probabilities. The Court further found that the

appellant has failed to discharge its burden, particularly after the presumption stands rebutted.

Learned counsel for the appellant has made sincere attempt, however, failed to draw attention of the court to any misreading of evidence or perversity in the judgment passed.

Hence, leave to appeal is declined.

January 08, 2020
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No