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dated 01.02.2018 was issued to the respondent calling upon him to pay the aforesaid cheque amounts, but to no avail. Aggrieved by the same, the applicant filed the complaint (supra) against the respondent which was dismissed and hence, he has approached this Court.

3. Having heard the learned counsel for the applicant and after perusing the record with his able assistance, this Court finds that the applicant himself admitted in his cross-examination that the respondent never borrowed an amount of Rs.2,00,000/- from him as alleged by him in the complaint (supra) and never issued the cheques in question in his favour. Thus, the basic ingredient necessary for proceeding under Section 138 of the N.I Act, i.e., a legally enforceable debt, has been denied by the applicant himself. Also, the applicant himself stated in his cross-examination that he could not tell the date, month and year when the respondent gave him the cheques in question, thereby, making this Court to draw adverse inference against the case of the applicant. Moreover, the said fact is also not disclosed in the complaint as well. Hence, the observations recorded by the learned trial Court stand validated.

4. Pertinently, the power of the Appellate Court to unsettle the order of acquittal on the basis of re-appreciation of the evidence is subject to the settled law that where two views are possible and out of the two, one points towards the innocence of the accused, the view which favours the accused should prevail over the other pointing towards his guilt. Furthermore, the trial Court has the additional advantage of closely observing the prosecution witnesses and their demeanour, while deciding about the reliability of the version of prosecution witnesses. **(See H.D. Sundara and**

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others Vs. State of Karnataka, Criminal Appeal No.247 of 2011 decided on 26.09.2023; Kali Ram v. State of H.P., 1973 (2) SCC 808 and Chandrappa and others v. State of Karnataka, (2007) 4 SCC 415). A Division bench of this Court in the judgment passed in **State of Haryana Vs. Ankit** and others CRM-A No.3 of 2022 decided on 06.07.2023 has held that presumption of innocence further gets entrenched on the acquittal of accused by the trial Court.

5. In view of the facts and circumstances of the case, this Court finds that learned counsel for the applicant-appellant has failed to point out any perversity or illegality in findings recorded by the learned trial Court which warrants interference by this Court. As such, there is no merit in the present application and hence, the leave to appeal is denied.

(HARPREET SINGH BRAR)
JUDGE

21.02.2024
Ajay Goswami

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No