



\$~24

\*

**IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CRL.L.P. 408/2023

**HARJINDER SINGH**

..... Petitioner

Through: Mr. Naresh Sharma, Advocate.

versus

**JASSIMAR SINGH WALIA**

..... Respondent

Through: Mr. Taranpreet Singh, Md. Shameem  
and Mr. Dharm Prakash, Advocates.

**CORAM:**

**HON'BLE MR. JUSTICE AMIT SHARMA**

**ORDER**

**03.05.2024**

%

1. The present petition has been filed challenging the order of acquittal dated 23.05.2023 passed by learned Metropolitan Magistrate in complaint case No. 4965/2018 titled '*Harjinder Singh v. Jassimar Singh Walia*' under Section 138 of the Negotiable Instruments Act.
2. Learned counsel appearing on behalf of the petitioner submits that the cheque in question was issued on behalf of the respondent in pursuance of re-payment of loan of Rs. 5 lakhs taken from him. It is pointed out that in the complaint filed by the petitioner, there was a categorical assertion with regard to the promissory note executed by the respondent; however, the same was not produced at the time of examination of the petitioner. It is further submitted that the learned Trial Court did not appreciate the fact that no possible explanation was given by the respondent with regard to the cheque being in possession of the respondent.
3. *Per contra*, learned counsel appearing on behalf of the respondent



submits that learned Trial Court has given a categorical finding that the petitioner could not establish his legal enforceable liability *qua* the present respondent. It is further submitted that the promissory note as referred by learned counsel for the petitioner was not executed during the course of the trial.

4. Heard learned counsel for the parties and perused the record.

5. The explanation given by the respondent with respect to how the cheque in question came into his possession has not been properly appreciated by the learned Trial Court. The explanation so given is not supported by any other circumstance or evidence brought on record. The alleged promissory note not exhibited during the course of trial has been sought to be proved by way of an application under Section 391 of the Code of Criminal Procedure, 1973 in the present proceedings.

6. Looking at the facts and circumstances of the case, leave is granted. The present criminal leave petition is allowed and disposed of. The same may be registered as a criminal appeal and the registry is directed to number it accordingly. Pending application(s) are also disposed of accordingly.

7. In the meantime, respondent is directed to furnish a personal bond in the sum of Rs. 10,000/- with one surety to the satisfaction of the Registrar General of this Court.

**CRL.A.....(to be numbered) & CRL.M.A. 21684/2023 (additional document), 21685/2023 (additional evidence)**

8. List on 24.09.2024.

**AMIT SHARMA, J**

**MAY 03, 2024/sn**

*Click here to check corrigendum, if any*