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

+ CRL.L.P. 1/2019

MOHD. SABIR

.....Petitioner

Through: Mr. Varun Deswal & Mr. Danish
Khan, Advs.

versus

AAMIL KHAN

.....Respondent

Through: Mr. Umang Tyagi, Mr. Roshan Lal,
Ms. Nikita Anand & Ms. Adya Gupta,
Advs.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

29.04.2025

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CRL.L.P. 1/2019

1. A Criminal Leave petition under Section 378(4) Cr.P.C has been filed on behalf of the Petitioner challenging the impugned judgment dated 23.06.2018 on the grounds that the learned Trial Court has failed to appreciate the evidence and that as per general practice no bank takes cheques for issuing ATM Card as stated by the Respondent in his Statement and also that the Respondent had admitted that the Complaint was lodged after three months of receiving the legal Notice.
2. It is submitted that the complainant was consistent in his testimony. The learned Trial Court fell in error in putting the onus on the Complainant erroneously to prove that there was a legally recoverable debt, when in fact Section 131 Indian Evidence Act specifically provides that the onus is on the

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accused to show that there was no legally recoverable debt.

3. In view of the reasons stated, the leave to appeal is allowed.

Crl.APP. No. _____/2025 (To be numbered by the Registry)

4. **Submissions heard.**

5. Judgment reserved.

NEENA BANSAL KRISHNA, J

APRIL 29, 2025/gs

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