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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ **CRL.L.P. 378/2022**  
**SH. UMESH SHARMA**

.....Petitioner

Through: Mr. Govind Kaushik, Adv.

versus

**M/S 3AAA HOSPITALITY. & ORS. & ORS.**

.....Respondent

Through: None

**CORAM:**  
**HON'BLE MR. JUSTICE JASMEET SINGH**

**ORDER**  
**16.01.2025**

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1. This is an application filed under 378(4) of the Code of Criminal procedure, 1973 seeking grant of leave to appeal against the order dated 21.05.2022 passed by the learned Metropolitan Magistrate (MM) - 08, (NI Act), South West, Dwarka Courts, Delhi, whereby the respondents were acquitted of offences under section 138 NI Act in CC No. 15749/2017.
2. In the present case, the petitioner was retired from the partnership firm, namely, M/s 3AAA Hospitality (respondent No.1 herein) and a retirement cum settlement deed was executed between the petitioner and respondent nos. 2 and 3 on 13.02.2027. As per the settlement agreement, a total of Rs 7 lakhs was payable to the petitioner by respondent nos. 2 and 3 and in order to discharge the said liability the petitioner was given 3 cheques and the details of the same are as follows:-



| Cheque dated | Cheque No. | Amount (in Rs.) | Drawn on                  |
|--------------|------------|-----------------|---------------------------|
| 25.04.2017   | 000412     | 3,00,000/-      | Kotak Bank, Dwarka Branch |
| 25.05.2017   | 000413     | 2,00,000/-      | Kotak Bank, Dwarka Branch |
| 25.06.2017   | 000414     | 2,00,000/-      | Kotak Bank, Dwarka Branch |

3. All the aforesaid cheques on presentation were dishonoured.
4. The learned MM while acquitting the respondents has taken a view that there was another cheque bearing No. 000411, for a sum of Rs. 4.06 lakhs which was paid to the petitioner on 17.03.2017 and therefore, after deducting a sum of Rs. 4.06 lakhs, the legal liability of the respondents towards the petitioner was not more than Rs. 2,96,000/-.
5. I am of the view that the cheque bearing no. 000411 was issued prior to the issuance of the 3 cheques bearing Nos. 000412, 000413 and 000414 and if it was towards the liability of the retirement dues of the petitioner, the same would have been mentioned in the settlement dated 13.02.2017.
6. Even though the respondents have been served and have also filed a reply, however, no one has appeared on behalf of respondent Nos. 2 and 3 today.
7. I am of the view that the petitioner has made out a *prima facie* case and in this view of the matter, the petitioner is granted leave to appeal to challenge the order dated 21.05.2022.
8. The application is allowed and is disposed of accordingly.

**CRL.A. /2025 (TO BE NUMBERED)**

9. Since the leave to appeal has been granted, the Registry is directed to



number the appeal.

10. **“Admit”**

11. List in due course.

**JASMEET SINGH, J**

**JANUARY 16, 2025 / (MS)**

*Click here to check corrigendum, if any*