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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ **CRL.L.P. 478/2022**  
**LAXMI CHAND TOMAR**

.....Petitioner  
Through: Mr. M. P. Arora, Mr. Shiv Kumar,  
Ms. Renu Rawal, Advs.

versus

**MAMATA RAUTH**

.....Respondent  
Through: Mr. Avdhesh Kumar Singh, Ms.  
Nisha Singh, Advs.

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

**ORDER**  
**03.02.2025**

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1. This is an application seeking grant of leave to appeal against the judgment dated 07.09.2022 passed by MM-08, N.I. Act, Dwarka Courts, New Delhi in Ct. Case 12410/2017 titled as "*Laxmi Chand Tomar vs. Mamata Rauth*" wherein the respondent has been acquitted for offences under Sections 138 of Negotiable Instruments Act.
2. In the present case, it is stated by Mr. Arora, learned counsel that the learned MM has treated the complaint as a civil suit and decided the same on preponderance of probabilities rather than appreciating the fact that the petitioner had given a loan of Rs. 5 lakhs supported by a loan agreement for which the cheque had been given.
3. The same is disputed by Mr. Singh, learned counsel for the



respondent that the entire amount has been paid through banking channels by the respondent.

4. I am of the view that the presumption of law under Sections 138 of Negotiable Instruments Act in favour of the petitioner has *prima-facie* not duly been addressed by the learned MM.
5. The fact that the petitioner had dishonoured cheque supported by a loan agreement, the analysis and the evidence needs to be looked into by this Court.
6. For the said reasons, the present application seeking leave to appeal is allowed and the petitioner is granted leave to appeal.

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

7. The Registry is directed to number the appeal.
8. Issue notice. Mr. Singh, learned counsel accepts notice.
9. For the reasons stated in the appeal, the appeal is “**Admitted**” and shall be listed in due course.

**JASMEET SINGH, J**

**FEBRUARY 3, 2025/sp**

*Click here to check corrigendum, if any*