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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.L.P. 415/2018 & CRL.M.A. 12051/2018**
RAM PAL

.....Petitioner

Through: Dr. Aman Gaur, Mr. Kumar Balram,
Advvs.

versus

SUBHASH KHURANA

.....Respondent

Through: Mr. OP Gupta, Adv.

CORAM:
HON'BLE MR. JUSTICE JASMEET SINGH

ORDER
16.01.2025

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1. This is an application filed under section 378 (4) of the Code of Criminal Procedure, 1973 seeking grant of leave to appeal against the judgement dated 16.02.2018 passed by the learned MM-07, Dwarka Courts, New Delhi in C.C. No. 5005831/16 titled "*Ram Pal Vs. Shubhash Khurana*" whereby the respondent has been acquitted for the offence under section 138 of the Negotiable Instruments Act.
2. Mr. Gaur, learned counsel for the petitioner has drawn my attention to the testimony of the accused/respondent, wherein the respondent has stated in his cross-examination that the respondent himself had instructed the petitioner to present the cheque in question for encashment.
3. The said testimony has been ignored by the learned MM on the ground that it is an isolated statement. Further, the learned MM has also ignored the fact that the petitioner, in the past, was also advancing loan to



the respondent, and hence, he had the financial means to give a loan of Rs. 1.5 lakh.

4. 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 judgment dated 16.02.2018.

5. The application is allowed and is disposed of accordingly.

CRL.A. /2025 (TO BE NUMBERED)

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

7. Issue notice. Mr. Gupta, learned counsel accepts notice on behalf of the respondent and seeks permission to file a short note of arguments.

8. Let the needful be done.

9. **“Admit”**

10. List in due course.

JASMEET SINGH, J

JANUARY 16, 2025 / (MS)

Click here to check corrigendum, if any