



| SL. No. | Date | Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures | COURT'S OR JUDGE'S ORDERS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
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|         |      |                                                                                                  | <p><b><u>CRLR/185/2012</u></b></p> <p>Anand Kumar</p> <p style="text-align: right;">--Revisionist</p> <p style="text-align: center;"><b>Versus</b></p> <p>State Of Uttarakhand</p> <p style="text-align: right;">--Respondent</p> <p><b><u>Hon'ble Alok Mahra, J.</u></b></p> <p>Mr. Narendra Bali, Advocate for the revisionist.</p> <p>Mr. Rakesh Kumar Joshi, A.G.A. and Mr. Manoj Bhatt, Brief Holder for the State of Uttarakhand.</p> <p>Mr. Deepak Sharma, Advocate for respondent no.2.</p> <p>2. By means of the present Criminal Revision, the revisionist has assailed the judgment and order dated 31.07.2012 passed by learned 5<sup>th</sup> Additional Sessions Judge, Haridwar in Criminal Appeal No.68 of 2012, whereby the appeal preferred by the revisionist came to be dismissed. The revisionist has also challenged the judgment and order dated 30.03.2012 passed by the learned 2nd Special Judicial Magistrate, Haridwar, in Criminal Case No. 177 of 2012, whereby he was convicted for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881. By the said order, the revisionist was directed to pay compensation of ₹8,02,000/- to the respondent. It was further directed that, in the event of default in payment of the said compensation, the revisionist shall undergo simple imprisonment for a period</p> |



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|  |  | <p>of one year. Additionally, a fine of ₹1,000/- was imposed upon him, payable to the State Government, and in default of payment of the said fine, he was directed to further undergo simple imprisonment for a period of one month.</p> <p>3. Learned counsel for the revisionist contended that the prosecution failed to establish, by cogent documentary evidence, the financial capacity of the complainant to advance a sum of ₹8,02,000/- to the revisionist. It was, therefore, argued that the statutory presumption under Sections 118 and 139 of the Negotiable Instruments Act stood rebutted and that the courts below committed an error in recording the conviction.</p> <p>4. The aforesaid submission does not merit acceptance. A perusal of paragraph 24 of the judgment passed by learned Appellate Court reveals that, upon due appreciation of the documentary evidence adduced by the complainant, it has been categorically recorded that the complainant possessed sufficient financial means to advance the amount in question to the revisionist. The learned Appellate Court has returned a clear finding of fact that the complainant's financial capacity stood duly established from the material available on record.</p> <p>5. It is well settled that in exercise of revisional jurisdiction, this Court does not ordinarily interfere with concurrent findings of fact unless the same are shown to be perverse, based on no evidence, or suffering from manifest illegality. In the present case, the revisionist has failed to point out any perversity, illegality or material irregularity in the appreciation of evidence by the courts below. The findings</p> |
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