

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-A-902-MA of 2013 (O&M)

Date of decision: 27.11.2015

Mani Singh

...Applicant

Versus

S.P. Singh

...Respondent

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. B.P.S. Virk, Advocate for the applicant.

Jitendra Chauhan, J. (Oral)

By filing the present petition, under Section 378(4) of the Code of Criminal Procedure (for short 'Cr.P.C.'), the applicant has assailed the judgment dated 14.08.2013, passed by the Sub Divisional Judicial Magistrate, Guhla, dismissing the complaint and acquitting the accused therein of the charges framed against him under Sections 382, 406, 420, 148 and 149 of the Indian Penal Code (for short 'IPC').

It is contended that the learned trial Court dismissed the complaint without appreciating the material facts on record. The applicant had taken the financial assistance of Rs. 7 lacs from the respondent-accused on account of purchasing a chasis of the truck. The applicant paid the regular installments, however, on account of financial crises, he could not pay two or three installments, due to

which, the respondent-accused snatched the truck from the driver of the applicant. The matter was also reported to the police but no action was taken against the respondent/accused. The trial Court has not considered the fact that on this account, the applicant has suffered loss of Rs. 3000/- per day. The learned counsel cites **Tarun Bhargava Vs. State of Haryana**, 2002(3) RCR (Criminal) 312, **Muthoot Leasing and Finance Ltd. Vs. M/s Vasudeva Publicity Service and another**, 2003(4) RCR (Criminal) 259 and **M/s Punjab Kashmir Finance Ltd. Vs. State of Haryana and another**, 2008(2) RCR (Criminal) 52.

Heard.

The applicant himself admitted in his complaint that he failed to repay two or three installments of the financed amount to the respondent/accused (financer). The financial institution i.e. Bank has the right to seize the vehicle in case of default on account of the borrower. Otherwise also, there is nothing on record to show that how much installments were unpaid by the applicant. Neither any receipt nor any authenticated document has been placed on record to substantiate his claim. The citations cited by the learned counsel for the petitioner are distinguishable on facts and will not apply in the present case.

In the circumstances, the finding of acquittal recorded by the trial Court cannot be said to be perverse or contrary to the material on record. In fact there is no infirmity in the reasoning assigned by the

trial Court for acquitting the accused/respondent. It is a settled law as has been held in C. Antony Vs. K.G. Raghavan Nair, 2002(4) RCR (Criminal) 750 that even if a second view on appreciation of evidence is possible, the Court will not interfere in the acquittal of the accused. In the cases of acquittal, there is double presumption in his favour; first the presumption of innocence, and secondly the accused having secured an acquittal, the Court will not interfere until it is shown conclusively that the inference of guilt is irresistible.

Accordingly, the leave to appeal stands declined.

Dismissed.

27.11.2015

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(JITENDRA CHAUHAN)
JUDGE