

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM No.A-1205-MA of 2015 (O&M)
Date of decision: November 06, 2015

Jasbir Singh

...Applicant

Versus

Taranjit Kaur

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Hardip Singh, Advocate
 for the applicant.

INDERJIT SINGH, J.

Applicant-Jasbir Singh has filed this application under Section 378(4) Cr.P.C. seeking permission for leave to appeal against respondent Taranjit Kaur challenging the judgment dated 08.04.2015 passed by learned Judicial Magistrate Ist Class, Patiala, whereby the accused-respondent was acquitted.

It is mainly stated in the application that accompanying appeal is likely to succeed on the grounds taken therein. It is further stated in the application that impugned judgment passed by trial Court is result of misreading and wrong appreciation of evidence on record.

I have heard learned counsel for the applicant and have gone through the record.

As per the record, the complainant Jasbir Singh filed a

complaint against Taranjit Kaur under Section 138 of the Negotiable Instruments Act read with Section 420 IPC. As per complainant's version, accused took a loan of ₹2 lacs from him in the month of October 2012, as accused was on friendly terms with him. After taking loan, accused issued one post dated cheque No.469252 drawn on State Bank of Patiala for ₹2 lacs dated 04.03.2013 in favour of the complainant. On presentation, the cheque was returned with the remarks 'Insufficient Funds'. Legal notice was served. When the payment was not made, then complaint was filed.

Learned JMIC, Patiala vide impugned judgment dated 08.04.2015, after appreciating the evidence, held that accused had rebutted the presumption under Section 139 of the Negotiable Instruments Act. It is further held that it is specific case of the accused that cheque in question was handed over to Kulwinder Singh Ghuman, who is close friend of complainant and he handed over the same to him so as to falsely implicate the accused in the present complaint. Accused Taranjit Kaur had moved an application to the police authority wherein complainant had admitted the fact of handing over of the cheque in question by Kulwinder Singh Ghuman. Before lower Court, learned counsel for the complainant refuted this contention by stating that police official got appended his signatures on four blank papers and changed the same in the shape of statement to prove her version.

The Court after perusing the statement Ex.DC found that statement has been recorded in question-answer form and he

appended his signatures after each answer at point A to point E. The Court did not believe the version of the complainant that he put signatures on blank papers. The Court held that had the signatures been appended on blank papers, the statement would not have been in question-answer form. The Court also held that the filing of application Ex.CW2/A/Mark C-6 also appears to be an after thought story. No proceedings have been initiated on application moved by the complainant nor complainant filed any complaint before higher officials. The Court further held that statement of complainant before the police official in an enquiry proceedings in question answer form goes on to disbelieve the version qua obtaining his signatures on blank papers.

Also, the Court held that from the judgment Ex.DX in the complaint case 'Taranjit Kaur vs. Kulwinder Singh Ghuman, it is clear that cheque in that complaint was bearing No.469251 and the cheque in the present case is bearing No.469252 i.e. the next one in the series. The cheque is stated to be of the year 2013. The Court held that writing on cheque in question is similar to the writing on the previous cheque bearing No.469251. It is stated that the peculiar style of writing as well as sequence of cheque numbers in both the complaints makes the plea of accused probable. The Court further held that accused through the cross-examination of complainant as well as through defence, has been able to shatter the credibility of case of the complainant. The complainant in the cross-examination also stated that he lent ₹2 lacs to the accused and ₹1.40 lacs was

received from Sarup Singh DSP, Patiala and ₹44,000/- was received from commission agent Moud Gil. The complainant also stated in cross-examination that he knew the accused and accused used to obtain wheat crop from him. There is no other averment except this. The Court held that complainant has failed to explain as to why he lent huge amount to the customer and that too to a lady whose financial capacity is not known to him. It is also discussed by learned Court below that loan amount has not been shown in income tax return nor there is any document to show the advancement of loan.

From the above, I find that the findings have been given by learned JMIC, Patiala, correctly and as per law while appreciating the evidence in right perspective. There is nothing on the record that any evidence has been misread by the Court below or the findings given by the Court below are perverse. There is also nothing on the record to show that any material evidence has not been considered by the Court below.

In view of the above discussion, I find that the judgment dated 08.04.2015 passed by learned JMIC, Patiala, is correct, as per law and evidence.

Keeping in view above facts and circumstances, I find that no ground is made out to grant permission for leave to appeal and therefore, the present application stands dismissed.

November 06, 2015
Vgulati

(INDERJIT SINGH)
JUDGE