IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

CRM No. A-1621-MA of 2014
Date of decision: 05.02.2015

Azad Singh Ranga

…..Applicant

versus

Gurmeet Singh

……Respondent

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr. Ranvir S. Chauhan, Advocate for the applicant

1. Whether Reporters of Local Newspapers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

Kuldip Singh, J.

Applicant has filed this application under Section 378(4) Cr.P.C. for grant of leave to appeal against judgment dated 17.7.2014, passed by the learned Judicial Magistrate 1st Class, Chandigarh, vide which the complaint filed by the applicant under Section 138 of the Negotiable Instruments Act, 1881 was dismissed and the accused was acquitted.

The facts necessary for the purpose of disposal of the application are that the applicant is the President of Akhil Bhartiya Bank Employees Cooperative Urban Salary Earners Thrift and Credit Society Limited (for short, 'Cooperative Society'). It is stated that the accused took a loan of Rs.20,000/- from the said Society in the year 1994 and Rs.5550/- in the year 1995. In order to discharge the said loan, the accused issued cheque No.948231 dated 1.4.2009 for

Rs.58,084/- drawn at State Bank of Patiala, Chandigarh. The said cheque when presented was dishonoured for want of sufficient funds. After completing formalities of issuing notice, the complaint was filed.

Accused was summoned and after recording the evidence, the complaint was dismissed.

The perusal of the impugned judgment shows that according to the complainant, total loan of Rs.25550/- was taken in the year 1994-1995. The trial Court found that Rs.24000/- were returned vide different cheques dated 27.5.2004, 22.4.2006, 31.5.2006 and 6.7.2007. He also paid Rs.31250/- i.e. Rs.625/- P.M. for 50 months from 1.8.1994 to 6.6.2001. In this way, total sum of Rs.55250/- has been paid against the loan of Rs.25550/-. The learned Magistrate came to the conclusion that the complainant claims that still a sum of Rs.58,084/- is due from the accused which is legally enforceable debt. It is for this debt that the due cheque was issued. It was found by the trial Court that the complainant neither asserted nor proved that sum of Rs.58,084/- is due against the accused either on 1.4.12009 or 9.4.2009. No statement of account to show the said due amount was proved. Therefore, the trial Court found that the legally enforceable debt of Rs.58,084/- was not proved. It was further found that the cheque is MICR cheque and the same is not in use since long. Therefore, the trial Court found that probably it was taken as security and misused later on. Since the legally recoverable debt of Rs.58,084/- was not proved and more than double of the amount of loan was repaid, therefore, the trial Court was justified in dismissing the complaint.

Accordingly, I do not find any ground to grant leave to appeal to the accused. Consequently, the application is dismissed.

05.02.2015 **(Kuldip Singh)**
gk **Judge**