

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM No.A-1696-MA of 2014(O&M)
Date of decision: December 19, 2015

Surinder Kumar

...Petitioner

Versus

Karam Chand

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.B.S.Dhillon, Advocate
for the applicant.

INDERJIT SINGH, J.

Applicant-Surinder Kumar has filed this application under Section 378(4) Cr.P.C. seeking permission for leave to appeal against respondent Karam Chand, challenging the judgment dated 01.10.2014 passed by learned Judicial Magistrate Ist Class, Ambala, whereby accused-respondent was acquitted of the charges framed against him.

It is mainly stated in the application that accompanying appeal is likely to succeed on the grounds taken therein. It is further stated that learned JMJC, Ambala vide his impugned judgment dated 01.10.2014 acquitted the respondent from all the charges illegally and arbitrarily without considering the whole cogent evidence produced by the applicant.

As per the record, the complainant Surinder Kumar filed a

complaint against accused Karam Chand under Section 138 of the Negotiable Instruments Act. As per complainant's version, accused was having good relations with him. The accused shown emergency and demanded a sum of ₹50,000/- on 27.04.2012 and the complainant arranged the amount after withdrawing from the bank and paid a sum of ₹50,000/- to the accused on the same day and at the time of taking the amount, the accused promised to return the same within one year and issued cheque No.069305 dated 10.04.2013 drawn on Central Bank of India, Ambala City. On presentation of the cheque, the same was returned with the remarks 'insufficient funds'.

The complainant produced the evidence. At the close of prosecution evidence, the statement of accused under Section 313 Cr.P.C. was recorded. When the accused was confronted with the prosecution evidence, he denied the correctness of the same and pleaded himself as innocent. In defence, accused examined DW-1 Ramesh Lal, who proved the attested copy of police report under Section 173 Cr.P.C. as Ex.RW1/A and certified copy of charge-sheet dated 17.12.2013 as Ex.RW1/B. In cross-examination, he stated that the cheque book has been mentioned in the charge-sheet but cheque Ex.C1 has not been mentioned in charge-sheet and challan. Accused examined DW-2 Gurjant Singh, who corroborated the defence version and he admitted that Surinder Kumar, complainant has filed a case against him for borrowing ₹1 lac. He also admitted that Surinder has not filed a case against 500 people, rather he has filed a case of cheque dishonour against him and Karam Chand only. He further

stated that he received legal notice and its reply was sent through his counsel. The notice was also received by Karam Chand. After receiving notice, he got registered the FIR against Surinder.

Learned JMIC, Ambala, after discussing the evidence on record, believed the defence version as probable and acquitted the accused.

I have heard learned counsel for the applicant and have gone through the record, especially the judgment passed by learned JMIC, Ambala.

At the time of arguments, nothing has been pointed out as to which material evidence has been misread or which material evidence has not been considered by the Court below. Nothing has been argued as to how the findings given by the Court below are perverse i.e. against the evidence and law. The defence version is that accused has not borrowed the alleged amount of ₹50,000/- from the complainant and from the accused, the complainant took complete cheque book and the cheque in question was given to the complainant along with ₹500/- on the pretext of getting him the loan of ₹10,000 to ₹1 lac. Thereafter, complainant collected ₹500/- from many people including the accused along with their signed blank cheque and cheated them as he had not got them any loan rather on asking of their to return back ₹500/-, he started misusing their blank signed cheques. The Court discussed the FIR got registered by accused for cheating against the present complainant, in which the report under Section 173 Cr.P.C. has already been filed and the

present complainant has already been charge-sheeted. The Court also held that the Investigating Officer found the version of accused Karam Chand as correct and filed challan against the present complainant and complainant was charge-sheeted under Section 406 and 420 IPC. It is further held that the cheque in question has been signed in 'Hindi' whereas the other entries have been filled up in 'English' meaning thereby the cheque in question has been filled by a person other than the accused. No document has been produced on record to show the borrowing of loan. The Court further held that complainant also failed to show his financial capacity. The Court disbelieved the version of the complainant that he will give loan for such a long period without executing any security document.

In view of the above discussion, I find that the findings given by learned Addl. CJM, Jind, are as per evidence and the evidence has been appreciated in right perspective. In no way, the findings can be held as perverse. The judgment dated 01.10.2014 passed by learned JMJC, Ambala, is correct, as per law and evidence and does not require any interference from this Court.

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.

December 19, 2015
Vgulati

(INDERJIT SINGH)
JUDGE