**In the High Court of Punjab and Haryana, at Chandigarh**

**Criminal Misc. No. A-503-MA of 2014 (O&M)**

**Date of Decision: 12.3.2015**

M/s Sajjan Lawat

... Petitioner(s)

Versus

Ekta Bansal

... Respondent(s)

**CORAM: Hon'ble Mr. Justice Darshan Singh.**

Present: Mr. Rajesh Khandelwal, Advocate
for the applicant.

**Darshan Singh, J.**

**Criminal Misc. No. 10514 of 2014**

For the reasons mentioned in the application, the same is allowed. Delay of 496 days in filing the appeal stands condoned.

**Criminal Misc. No. A-503-MA of 2014**

1. This application has been filed under Section 378(4) of the Code of Criminal Procedure, 1973 (hereinafter referred to as "Cr.P.C.") for seeking special leave to file an appeal against the judgment of acquittal dated 3.10.2012 passed by the learned Judicial Magistrate Ist Class, Hisar whereby the accused/respondent has been acquitted.

2. The applicant has filed the complaint under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter referred to as "the Act") and Section 420 of the Indian Penal Code (hereinafter referred to as "IPC") against respondent-Ekta Bansal. On recording the preliminary evidence, the respondent was summoned to face the trial for the offence punishable under Section 138 of the Act.

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3. The respondent has been acquitted by the learned trial Court on the ground that the applicant has failed to establish that the disputed cheque was issued in discharge of the legally enforceable debt or other liability on the ground that the complainant/applicant firm was not having a money lending licence, though it was carrying on the business of money lending.

4. Learned counsel for the applicant has pleaded that the disputed cheque was issued by the respondent in discharge of the legally enforceable debt. He further pleaded that the view taken by the learned trial Court was erroneous.

5. I have given thoughtful consideration to the contentions raised by the learned counsel for the applicant.

6. This fact is not disputed that the judgment of acquittal can only be interfered with if the conclusion arrived at by the Court below is palpably wrong or based on erroneous view of law.

7. In the instant case, the learned trial Court has categorically mentioned that the complainant-firm was a money lender and was engaged in money lending business. The transaction in question was a loan transaction. The complainant firm was not having any licence for money lending.

8. In a latest judgment rendered by this Court in ***Narsi Dass v. Surender 2015(1) R.C.R.(Criminal) 104***, it was held that a person indulging in the business of money lending, having no money lending licence, is debarred to recover the loan amount. In case of dishonour of cheque for such a loan transaction, the accused is not liable under

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Section 138 of the Act. This case law fully covers the present controversy. So, there is no error in the conclusion arrived at by the learned trial Court.

9. Thus, in view of my aforesaid discussion, no case is made out to grant leave to file an appeal. Consequently, the present application as well as the appeal are hereby dismissed.

**(Darshan Singh)**
**Judge**

**March 12, 2015**
"DK"

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