IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM No.A-554-MA of 2015 (O&M)
Date of decision: December 19, 2015

Manmeet Kumar

...Applicant

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Amit Kumar Jain, Advocate for the applicant.

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INDERJIT SINGH, J.

Applicant-Manmeet Kumar has filed this application under Section 378(4) Cr.P.C. seeking permission for leave to appeal against State of Haryana and other respondents, challenging the judgment dated 28.11.2014 passed by learned Sub Divisional Judicial Magistrate, Safidon, whereby the accused-respondents were acquitted.

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 trial Court, while passing the impugned judgment has not considered the facts and circumstances of the present lis and law points applicable thereto. It is prayed that application be allowed to file accompanying appeal against the impugned judgment dated 28.11.2014 passed by learned trial Court in Crl.Case No.206-1 of

2011 captioned as 'Manmeet Kumar vs. Vijay Kumar etc.

As per the record, the complainant Manmeet Kumar filed a complaint against Vijay Kumar and Mukesh Kumar under Section 420 IPC. As per complainant's version, accused No.1 approached the complainant in the month of December and represented that he was working in HDFC Bank, Safidon, upon which complainant opened an account and deposited a sum of ₹25,000/-. At the time of opening of the account, a cheque book containing ten cheques and an ATM card was also handed over to the complainant. Since, he was in need of money, in the month of January, the complainant withdrew a sum of ₹20,000/- on 03.01.2011 and another sum of ₹4000/- on 07.01.2011. In the second week of January 2011, when accused No.1 contacted the complainant and inquried the reason for not maintaining a minimum balance of ₹25,000/-, complainant showed his inability and directed accused No.1 to close the account but accused No.1 offered himself to continue the said account and asked the complainant to handover the ATM card and the cheque book containing eight blank signed cheques. The complainant never deposited any amount in his account thereafter nor operated the same after handing over the cheques to accused No.1. On 17.05.2011, accused No.1 returned the cheque book containing two cheques. The complainant asked regarding remaining cheques and accused No.1 said that the remaining cheques were lost. On receiving legal notice on 15.09.2011 from S.S.Ruhal, Advocate, Panipat regarding dishonouring of cheque No.038681 of ₹6,40,000/-, the complainant approached the bank and obtained the statement of account from which it transpired that accused No.1 had deposited a sum of ₹1 lac on 29.01.2011 and then withdrew it by way of separate withdrawal ranging from ₹10,000/- to ₹50,000/-. It is further stated by complainant that he never met accused No.2 in his lifetime but accused No.2 in collusion with accused No.1, presented the said cheque without any right.

Learned SDJM, Safidon, vide impugned judgment dated 28.11.2014, after appreciating the evidence on record, acquitted accused-respondents of the charges framed against them.

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

From the record, I find that the findings have been given by learned trial Court after appreciating the evidence in right perspective. 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 learned Court below are perverse or against the evidence and law. In the version given by the complainant, he admitted that he has got opened an account. He admitted that a cheque book containing ten cheques have been issued to him along with ATM card. The version that he gave eight blank signed cheques to the accused No.1 on his asking and accused No.1 later operated his account and then returned two cheques to the complainant, is not supported and corroborated by any cogent documentary evidence. Otherwise also, it looks improbable as to why the complainant would give eight blank signed cheques to the Bank Manager. There is nothing on the record as discussed by learned Court below that any DDR to that extent has been got registered by the complainant. There is nothing that complaint has been made to the higher authorities by the complainant against accused No.1 regarding misusing his cheques or regarding the cheques taken by him. There is also nothing as to why the complainant has not made enquiries or raised hue and cry when six signed cheques were not returned by accused No.1. Therefore, a reasonable doubt exists in the complainant's version. The accused-respondents have been rightly acquitted by the learned Court below.

In view of the above discussion, I find that the findings given by learned SDJM, Safidon, are as per evidence. The judgment dated 28.11.2014 passed by learned SDJM, Safidon, 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 **(INDERJIT SINGH)**
Vgulati **JUDGE**