

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

**CRR No. 900 of 2012 (O&M)**  
**Date of Decision : 13.03.2015**

Rashpinder Singh

.....Petitioner

Versus

Smt. Rupwati

...Respondent

**CORAM: HON'BLE MR. JUSTICE R.P. NAGRATH**

Present: Mr. Vivek Suri, Advocate  
for the appellant.

Mr. R.K. Goyal, Advocate  
for Mr. A.R. Takkar, Advocate  
for the respondent.

**R.P. Nagrath, J. (Oral)**

Challenge in the instant petition is to the order dated 17.02.2012 passed by the Additional Sessions Judge, Ambala whereby application of the petitioner-complainant for production of the additional evidence has been declined.

The respondent faced trial of the offence under Section 138 of the Negotiable Instruments Act which has resulted in acquittal of the respondent. The petitioner, however, filed an appeal against the order of the acquittal which is pending before the Additional Sessions Judge, Ambala. The law is quite well settled as laid down by this Court in **M/s Tata Steel Ltd. vs. M/s Atma Tube Products Ltd. and others, 2013 (2) RCR (Criminal) 1005** that appeal against order of acquittal in a complaint case lies before this Court with a prayer for seeking special leave to appeal in terms of Section 378 (4)

Cr.P.C. It is thus quite clear that the appeal against acquittal is not maintainable before the Sessions Court.

Learned counsel for the petitioner submits that petitioner would approach learned Additional Sessions Judge with necessary prayer for withdrawing the appeal and to present the same before this Court in accordance with law. It is further submitted that the Appellate Court should not have separately heard and dismissed the application for additional evidence as its importance and relevancy should be considered alongwith main appeal.

Since the Additional Sessions Judge lacks inherent jurisdiction in hearing the appeal against the acquittal in a complaint case, the impugned order thus cannot be sustained on that ground. The impugned order passed by the Additional Sessions Judge rejecting the prayer for additional evidence is thus set aside. The petitioner would of course be at liberty to make application afresh as and when the appeal is properly instituted.

Disposed of in the above terms.

**March 13, 2015**

jk

**( R.P. NAGRATH )  
JUDGE**