

**210 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRR-2482 of 2013
Date of Decision: 18.02.2015**

Hem Raj

.... Petitioner

vs.

Harbans Singh

.... Respondent

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Raj Kumar, Advocate
for the petitioner.

Mr. S.S. Brar, Advocate
for the respondent.

- 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.(Oral)

Challenged in the present revision is judgment dated 4.5.2013 passed by Learned Addl. Sessions Judge, Sirsa and judgment dated 12.4.2010 passed by learned Judicial Magistrate Ist Class, Dabwali whereby accused Harbans Singh (herein respondent) was acquitted of the notice served upon him under Section 138 of Negotiable Instruments Act, 1881. A perusal of judgment of learned Judicial Magistrate Ist Class, Dabwali shows that learned Magistrate came to the conclusion that complainant had no capacity to pay the disputed amount of Rs. 4,15,000/- and that the accused has the probable defence. In this regard, it was observed by the learned Magistrate that complainant failed to tell the place and time, where

the amount was paid to the accused. However, in the cross-examination it has been stated that the loan was advanced at the shop of one Jagan Nath who happens to be his brother and that the accused used to sell his crops at the commission agency shop of Jagan Nath. The account was opened in Bathinda Central Co-operative Bank, Sangat Bathinda and a signed cheque-book was also kept by him. Learned Magistrate also came to conclusion that the defence taken by the accused is reasonably probable. Complainant had no capacity to advance loan. The complainant admitted that his annual income is about two and half lacs and no document of the loan was got executed. Therefore, I find no illegality in the judgments of two Courts below.

Accordingly, present revision stands dismissed.

18.2.2015

Ishant

**(KULDIP SINGH)
JUDGE**