

In the High Court of Punjab and Haryana at Chandigarh

Crl. Revision No. 2114 of 2015 (O&M)
Date of decision: 28.9.2015

Rajesh Kumar

.....Petitioner

Versus

Puran Chand

.....Respondent

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Prashant Bansal, Advocate
for the petitioner.

None for the respondent.

SABINA, J.

Petitioner had faced the trial qua commission of offence punishable under Section 138 of the Negotiable Instruments Act, 1881 ('Act' for short) in a complaint filed by the respondent. Trial Court vide judgment/order dated 15.9.2014 ordered the conviction and sentence of the petitioner under Section 138 of the Act. Aggrieved against the said judgment/order of his conviction and sentence, petitioner preferred an appeal and the same was dismissed by the Appellate Court vide order dated 24.4.2015. Hence, the present petition by the petitioner.

Learned counsel for the petitioner has submitted that the Courts below had erred in ordering the conviction and sentence of the petitioner under Section 138 of the Act. In fact, the cheque in question had been issued by way of security.

Case of the complainant, in brief, was that he was

known to the petitioner. Petitioner had approached the complainant in the month of December for advancement of loan. Complainant had given ₹ 80,000/- to the petitioner by way of loan. In order to discharge the said liability, petitioner issued a cheque dated 26.7.2013 in the sum of ₹ 80,000/- in favour of the complainant. However, when the said cheque was presented for encashment with the bank, it was dishonoured with the remarks 'funds insufficient'.

In order to prove his case, complainant appeared in the witness box as CW-1.

The fact that the cheque in question was signed by the petitioner, is not in dispute. The petitioner had taken up the plea that the cheque in question had been issued by way of security as the complainant was running the business of lottery. However, the said plea raised by the petitioner was not substantiated on record. Since the cheque in question had been duly signed by the petitioner, presumption arises that the same had been issued in discharge of a debt.

Hence, in the facts and circumstances of the present case, the Courts below had rightly ordered the conviction and sentence of the petitioner under Section 138 of the Act.

No ground for interference by this Court is made out.

Dismissed.

**(SABINA)
JUDGE**

September 28, 2015

Gurpreet