

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

SANJIV KUMAR SHARMA
2015.02.13 12:29
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CRR No. 219 of 2015 (O/M)
Date of decision : 6.2.2015

Ram Kishan Petitioner
Versus
Lokesh Partap Singh Respondent

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Atul Goyal and Mr. Praveen Gupta, Advocates,
for the petitioner.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
 2. To be referred to the Reporter or not.
 3. Whether the judgment should be reported in the digest ?
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KULDIP SINGH, J.

Impugned in the present revision is the judgment dated 5.1.2015, passed by the learned Additional Sessions Judge, Yamuna Nagar at Jagadhri, affirming the judgment and order dated 27/28.2.2013, passed by the learned Judicial Magistrate 1st Class (JMJC), Yamuna Nagar at Jagadhri, vide which the accused/revisionist herein was convicted under Section 138 of the Negotiable Instruments Act, 1881 (in short 'the Act') and sentenced to undergo rigorous imprisonment for six months. He was further ordered to pay compensation to the tune of Rs. 8 lacs in terms of Section 357 (3) Cr.P.C. to the complainant/respondent herein within two months from the date of order, in default thereof, to further undergo rigorous imprisonment for three months.

Suffice to say that as per the case of the complainant/respondent herein, accused/revisionist in the discharge

of his existing liability issued a cheque No. 988500 dated 20.10.2008 for Rs. 5 lacs, drawn at State Bank of Patiala, Branch Bhiwani. The cheque, when presented, was dishonoured. Consequently, complainant/respondent herein launched a prosecution against him (accused) under Section 138 of the said Act. After recording the evidence, the learned JMIC, Yamuna Nagar at Jagadhri, convicted and sentenced the accused/revisionist herein, as aforesaid, vide judgment and order dated 27/28.2.2013. The appeal against the said judgment was dismissed by the learned Additional Sessions Judge, Yamuna Nagar at Jagadhri, vide order dated 5.1.2015.

I have heard learned counsel for the accused/revisionist herein and have also carefully gone through the file.

The record of the trial Court was also called for in this case.

Learned counsel for the accused/revisionist herein has argued that in this case, the said cheque was not filled in by the accused/revisionist herein. In this regard, the accused had also examined an expert. The examination of the file shows that accused/revisionist herein had not only signed on the front, but had signed twice on the backside of the said cheque. By signing on the back of the said cheque, he authorized any person to fill up the cheque. Therefore, non-filling of the said cheque by the accused/revisionist herein is no ground to exonerate him.

Learned counsel for the accused/revisionist herein has

further argued that in this case, no legal liability is proved. In the complaint, only 'legal liability' word is used. It has been argued that the accused/revisionist herein was not having good relations with his son and his son had misused the cheque in question.

A perusal of the trial Court file shows that on 20.2.2010, accused/revisionist herein had made a statement before the trial Court that he owes this money to the complainant. He admitted his liability. He stated that he has compromised with the complainant. Therefore, he should be given some time to make the payment. This statement of the accused/revisionist herein recorded without previous warning is a statement recorded under Section 313 Cr.P.C. and his admission to pay the liability. Therefore, the legal debt is proved. There are concurrent findings of two Courts below. There is no illegality or infirmity in the same. The authorities of the Hon'ble Supreme Court in Vijay Versus Laxman and another, 2013 (1) RCR (Civil) 980 as well as of this Court in M/s Goodwill Hire Purchase Corporation Versus Daljit Singh alias Jangi, 2010 (4) RCR (Criminal) 879, relied upon by the accused/revisionist herein, are of no help to him in the given circumstances.

As such the present revision is found to be without any merit and is thus, dismissed.

(KULDIP SINGH)
JUDGE

6.2.2015
sjks