

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR No.629 of 2015(O&M)
Date of decision: 23.02.2015

Mohan Singh

.....Petitioner

versus

State of Punjab and another

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr. Rajiv Joshi, Advocate for the petitioner

- 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.

The revisionist/ accused has filed this revision against judgment dated 6.2.2015, passed by the learned Additional Sessions Judge, Jalandhar, affirming that of learned Judicial Magistrate 1st Class, Jalandhar dated 29.4.2014, vide which the revisionist was convicted under Section 138 of the Negotiable Instruments Act, 1881 and sentenced to undergo RI for three months and pay fine of Rs.2000/-, in default thereof, to further undergo SI for 15 days.

The facts necessary to be reproduced for the disposal of the present revision are that Kapil Malik, complainant advanced a friendly loan of Rs.4,50,000/- without interest to the accused / revisionist in July 2010. Accused issued a cheque bearing No.643167 dated 18.1.2011 for Rs.4,50,000/-, which on being presented, was returned with the remarks "Account closed". The trial of the accused resulted into his conviction and sentence as aforesaid.

Learned counsel for the petitioner / revisionist has argued that both the Courts below have erred in not appreciating the evidence properly. It is stated that in fact the present cheque along with 15-16 cheques were lost 12 years ago. The real brother of the complainant Tarun Malik had earlier filed a complaint under Section 138 of the Negotiable Instruments Act, 1881 in respect of one of the cheques. I am of the view that the said plea is without any force. Accused has admitted his signatures on the dishonoured cheque. Therefore, presumption is raised against him under Section 118 and 139 of the Negotiable Instruments Act, 1881. It is not understood as to how all or some of the blank cheques in the cheque book were signed if the same was lost 12 years ago. If the brother of the complainant had also filed a complaint on the earlier occasion then there was no reason for the accused not to inform the bank or lodge a report with the police. No such report was lodged. Therefore, this plea appears to be afterthought. The complainant has stated that a friendly loan was advanced. The mere fact that the complainant could not tell the address of the accused, does not mean that he does not know the accused. One may be knowing so many persons but may not be knowing the addresses of all of them.

After going through the evidence of the two Courts below, I find that the evidence was well appreciated and the guilt of the accused/ revisionist was proved beyond any doubt.

Accordingly, the present revision petition is dismissed.

23.02.2015**(Kuldip Singh)
Judge**