

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM No.A-284-MA of 2013(O&M)
Date of decision: January 25, 2016

Jeet Singh

...Applicant

Versus

Mohan Lal

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.A.S.Virk, Advocate
for the applicant.

Mr.Ashit Malik, Advocate
for the respondent.

INDERJIT SINGH, J.

Applicant-Jeet Singh has filed this application under Section 378(4) Cr.P.C. seeking permission for leave to appeal against respondent Mohal Lal, challenging the judgment dated 15.11.2012 passed by learned Special Judicial Magistrate, Kurukshetra, whereby accused-respondent was acquitted of the charges.

It is mainly stated in the application that accompanying appeal is likely to succeed on the grounds taken therein. It is further stated that applicant is sanguine about the success of the appeal. It is, therefore, prayed that leave to file the appeal be granted.

Notice of motion was issued and learned counsel for the respondent appeared and contested the application.

As per the record, the complainant Jeet Singh filed a

complaint against accused Mohan Lal under Sections 138/142 of the Negotiable Instruments Act, 1881. As per complainant's version, the accused has borrowed a sum of ₹21 lacs from the complainant and in order to discharge his legal liability, the accused issued cheque bearing No.001901 dated 24.03.2006 for a sum of ₹21 lacs, which on presentation for encashment, was dishonoured with the remarks 'insufficient funds'. Legal notice was served upon the accused. When the amount was not paid, then the complaint was filed.

Learned Special Judicial Magistrate, Kurukshetra, after appreciating the evidence, acquitted the accused-respondent vide impugned judgment dated 15.11.2012.

After hearing learned counsel for the parties and after going through the record, I find that nothing has been argued as to how the findings given by learned Court below are perverse or against the law. Nothing has been pointed out as to which material evidence has been misread or which material evidence has not been considered by the Court below.

First of all, as per the version of the complainant, loan of ₹21 lacs has been given to the accused but no date, month and year or any particular has been mentioned in the complaint. No security document has been got executed from the accused at the time of lending the loan of such a huge amount of ₹21 lacs. Even otherwise on the record, no account statement or any document is proved to show the advancement of ₹21 lacs as loan to the accused. No income tax return has been produced to corroborate the complainant's

version.

Furthermore, the accused has denied his signatures on the cheque and he has produced DW-1 Ram Dhan Babbar, Handwriting and Finger Print Expert, who has given the report that the signatures on the cheque are different from the signatures of the accused. Further, DW-2 ASI Vijay Kumar has proved the copy of DDR Mark-D1 regarding loss of cheque book.

As discussed that there is no document on record to support the complainant's version that he lent amount of ₹21 lacs to the accused and in view of the report of the Handwriting and Fingerprint Expert that signatures on the cheque are not of accused and thirdly the DDR has already been lodged by the accused regarding loss of cheque book, I find that the findings have been given by learned Special Judicial Magistrate while appreciating the evidence in right perspective.

In view of the above discussion, I find that the judgment dated 15.11.2012 passed by learned Special Judicial Magistrate, Kurukshetra, is correct, as per law and evidence and does not require any interference from this Court. The accused has raised probable defence and presumption under Section 139 of the Negotiable Instruments Act is rebutted.

Keeping in view above facts and circumstances, I find that no ground is made out to grant permission for leave to appeal and therefore, the present application stands dismissed.

January 25, 2016

Vgulati

VINEET GULATI
2016.02.01 10:14
I attest to the accuracy and
authenticity of this document
Chandigarh

**(INDERJIT SINGH)
JUDGE**