

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

CRM-A-1001-MA of 2016 (O&M)

Date of decision: 24.10.2016

Jaspreet Singh

...Applicant

Versus

M/s True Bluz Clothing and another

...Respondents

**CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN**

Present: Mr. Rajesh Bhatheja, Advocate for the applicant.

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**Jitendra Chauhan, J. (Oral)**

**CRM-16010-2016**

Keeping in view the averments made in the application, the same is allowed. The delay of 45 days in filing the present petition for leave to appeal is hereby condoned.

**Main Case**

By filing the present petition, under Section 378(4) of the Code of Criminal Procedure (for short 'Cr.P.C.'), the applicant has sought special leave to appeal to assail the judgment dated 15.01.2016, passed by Judicial Magistrate 1<sup>st</sup> Class, Moga, whereby the accused (respondent Nos. 1 & 2) herein have been acquitted in a complaint No.141 dated 17.08.2012, under Section 138 read with Section 142 of the Negotiable Instruments Act (for brevity 'the Act').

It is contended by learned counsel for the applicant that the

impugned judgment dated 15.01.2016, passed by the learned trial Court is totally unjustified and unsustainable in the eyes of law. The trial Court has dismissed the complaint without appreciating the fact that the cheque bearing No. 593685 dated 28.02.2012 of Rs. 1,27,350/- issued by the respondent towards discharge of his liability of rent for the period from 01.07.2011 to 28.02.2012, stood dishonoured as respondent No.2 intentionally stopped the payment of cheque. Respondent No.2 had taken the premises on monthly rent of Rs.75,000/- and executed the registered lease deed on 14.06.2011 for nine years w.e.f. 01.07.2011. However, the trial Court erred in not taking into consideration the above said facts on record.

Heard.

The onus to prove the complaint was upon the applicant that the accused/respondents had actually given a cheque in question towards the rent for the period from 01.07.2011 to 28.02.2012. However, the period of rent has neither been mentioned in the complaint nor in the legal notice served upon the respondents. The applicant had admitted that he had received the amount of Rs.1,27,350/- by way of demand draft from the respondents. Learned Judicial Magistrate has recorded that a lot of doubt exists in the mind of the Court regarding existence of actual transaction between the parties and regarding the genuineness of the claim of the applicant, since the stand taken by him in his cross examination is altogether different from that of the complaint. On the one hand, he had stated that the respondent/accused had liability towards him

whereas during his cross examination, he had stated that he received the rent of Rs.67,500/- for three months @ of Rs.22,500/- per month and further admitted that he had also received the amount of Rs.1,27,350/- by way of demand draft. However, he failed to justify the fact that the liability of demand draft amount is altogether different from the cheque amount. There is no document on record to show the legal liability of the respondent towards the applicant. The allegations of the applicant appear to be vague.

In these circumstances, the finding of acquittal recorded by the trial Court cannot be said to be perverse or contrary to the material on record. In fact there is no infirmity in the reasoning assigned by the trial Court for acquitting the accused/respondent. It is a settled law as has been held in C. Antony Vs. K.G. Raghavan Nair, 2002(4) RCR (Criminal) 750 that even if a second view on appreciation of evidence is possible, the Court will not interfere in the acquittal of the accused. In the cases of acquittal, there is double presumption in his favour; first the presumption of innocence, and secondly the accused having secured an acquittal, the Court will not interfere until it is shown conclusively that the inference of guilt is irresistible.

Accordingly, the special leave to appeal stands declined.

Dismissed.

24.10.2016

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(JITENDRA CHAUHAN)  
JUDGE

Whether speaking/reasoned : Yes No

Whether Reportable: Yes No