

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

CRM-A-963 MA-2013 (O&M)

Date of decision: 26.04.2016

Rajesh Hooda

.....Applicant

versus

Pawan Kumar

.....Respondent

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.Surinder Dagar, Advocate for the applicant
Mr.Shiv Kumar, Advocate for the respondent

- 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. (Oral)

This order will dispose of the application filed under Section 378(4) Cr.P.C. for special leave to appeal against the order of acquittal dated 9.10.2012 passed by learned Judicial Magistrate 1st Class, Gurgaon, vide which, complaint filed by the applicant under Section 138/142 of the Negotiable Instruments Act, 1881 was dismissed.

Heard.

It comes out that accused is alleged to have issued a cheque bearing No.116843 for Rs.20 lacs on 28.9.2010 drawn on Union Bank of India for the discharge of his legal liability. The said cheque was dishonoured by the drawee bank on 1.10.2010. The same was returned with the remarks 'account closed'. However, the

complainant again presented the said cheque on 21.1.2011 which was again returned with the same remarks. Learned Magistrate held that the complaint is not maintainable as the complaint was not filed within the statutory period.

Learned counsel for the applicant has relied upon the authority of the Apex Court in the case of MSR Leathers vs. S. Palaniappan and anr., 2012(4) RCR (Civil) 485 and has pressed that the cheque can be presented any number of times. The perusal of the said authority shows that in that case, cheque was returned for want of sufficient funds. Therefore, cheque could be again presented as subsequently, there could be amount in the bank account to honour the cheque. In the present case, the cheque was returned with the remarks 'account closed'. Therefore, even if it is presented any number of times, the cheque will be dishonoured on the same ground. The complaint should have been filed after the first dishonour of cheque. It appears that just to cover up the limitation, cheque was again presented on 21.1.2011 and after the same report was received, fresh legal notice was issued.

I am of the view that learned Magistrate was justified in dismissing the complaint as it is not filed within the statutory period. No ground to interfere.

The applicant for grant of leave to appeal stands dismissed.

26.04.2016
gk

(Kuldip Singh)
Judge