

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

**CRM No.A-1380-MA of 2014 (O&M)**  
**Date of decision: September 06, 2016**

Gurpreet Singh

...Applicant

Versus

Neeraj Kumar

...Respondent

**CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH**

Present: Mr.Gurmukh Singh, Advocate  
for the applicant.

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**INDERJIT SINGH, J.**

Applicant-Gurpreet Singh has filed this application under Section 378(4) Cr.P.C. seeking permission for leave to appeal against respondent Neeraj Kumar, challenging the impugned judgment dated 09.05.2014 passed by learned Judicial Magistrate Ist Class, Sri Muktsar Sahib, vide which the accused-respondent was acquitted.

It is mainly stated in the application that accompanying appeal is being filed which is likely to succeed on the grounds taken therein. It is further stated that the judgment of acquittal of accused has caused grave miscarriage of justice. It is, therefore, prayed that leave to appeal be granted.

As per the record, the complainant Gurpreet Singh filed a complaint against accused Neeraj Kumar under Section 138 of the Negotiable Instruments Act. As per complainant's version, the accused took a cash loan of ₹85,000/- from the complainant and the accused issued a

cheque bearing No.145124 dated 28.12.2012 amounting to ₹85,000/- drawn

on HDFC Bank Ltd. in favour of the complainant, which on presentation for encashment, was returned back unpaid with the remarks 'Account closed' and 'Drawers signature differs'. Legal notice was served. When the amount was not paid, then the complaint was filed within time.

Learned JMIC, Sri Muktsar Sahib, after appreciating the evidence, acquitted the accused-respondent.

I have heard learned counsel for the applicant and have gone through the record.

From the perusal of the record, especially the impugned judgment, I find that the findings given by learned JMIC, Sri Muktsar Sahib, are correct, as per evidence and law. In no way, the findings can be held as perverse. Nothing has been pointed out as to which material evidence has been misread and which material evidence has not been considered by the Court below. Nothing has been pointed out as to how the findings given by learned Court below are perverse or against the law.

In the present case, no date, month and year has been mentioned as to when the loan was given to the accused by the complainant. During his cross examination, the complainant has stated that he is clerk with Advocate namely Sh. Manjinder Singh Chahal and he is also a Chowkidar of Bar Association and thereby earns ₹12,000/-₹13,000/- per month. He has claimed to know the accused from the last 3-4 years. Besides this, he could not tell anything else about the accused and further categorically stated that he did not make any enquiry from accused regarding his purpose of visiting the court complex. He voluntarily made statement that he had no much time to enquire. It is held that it is unusual

not know anything. No writing of any type has been taken including receipt or security document. There is no other document to prove the loan transaction. The Court below further held that there is material alteration on the body of the cheque. The Court further held that accused had already reported the matter to the police station vide DDR No. 11 dated 09.05.2011 i.e. well before the issuance of cheque. The contention of learned counsel for complainant that accused intentionally made a different signs than that he used to make, is not having force behind it as the body of the cheque has been written in different inks and at different time and by different person.

Learned Magistrate further held that there is over writing in the date mention on the corner of the cheque which stands clear even by naked eye and it is clear that the date has been changed from 20.11.2012 to 28.12.2012 and said correction has been made so as to extend the date for presenting it for clearance.

From the perusal of the impugned judgment, I find that the evidence has been appreciated in right perspective. In no way, the findings can be held as perverse or illegal.

In view of the above, I find that the impugned judgment dated 09.05.2014 passed by learned JMIC, Sri Muktsar Sahib, is correct, as per law and evidence and does not require any interference from this Court. No ground is made out for grant of leave to appeal and therefore, the present application stands dismissed.

**September 06, 2016**  
Vgulati

**(INDERJIT SINGH)**  
**JUDGE**

Whether speaking/reasoned  
Whether reportable

**Yes**  
**No**