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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM No. A-197-MA of 2014 (O/M)
Date of decision : 4.2.2016

Mr. Vijay Kumar Gupta

..... Applicant

Versus

Sonika Gupta

..... Respondent

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Manish Jain, Advocate, for the applicant.

Mr. A.S. Virk, Advocate, for respondent.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

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KULDIP SINGH J. (ORAL)

This order will dispose of the present application, filed by the applicant, under Section 378 (4) Cr.P.C. for grant of leave to appeal against the judgment dated 30.10.2013, passed by the learned Judicial Magistrate 1st Class, Ludhiana, vide which the complaint filed by the present applicant under Section 138 of the Negotiable Instruments Act, 1881 (in short 'the Act') was dismissed and the accused was acquitted.

I have heard the learned counsel for the parties and have also carefully gone through the file.

As per the case of the complainant before the lower Court is that Neeru Bansal, one of the clients of the complainant,

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had issued a cheque bearing No. 142491, dated 1.5.2006 for Rs. 2,60,000/-, drawn on HDFC Bank Ltd., in the name of M/s Asit C. Mehta Commodities Ltd., which was being run by the complainant through the franchise of the complainant. It is alleged that Sonika Gupta (accuse) misappropriated the said cheque and got it encashed in her account by changing the account number. To settle the said dispute, accused issued a cheque bearing No. 587882, dated 13.11.2006 for Rs. 3,00,000/-, drawn on HDFC Bank Ltd., LSE Building, Feroze Gandhi Market, Ludhiana, in favour of the complainant. The said amount included Rs. 40,000/- additional amount in addition to the amount of cheque because of delay of six months in payment. However, the accused stopped the payment of the said cheque.

It comes out that before the lower Court, it was not proved that there exists legally enforceable debt. Though, the cheque, issued by the accused, was proved, but the complainant did not lead any evidence to show that there was legally enforceable debt. No record of bank was summoned to prove that cheque bearing No. 142491, dated 1.5.2006, issued by said Neeru Bansal, was misappropriated by Sonika Gupta (accused) and was credited in her account by changing the account number. The said Neeru Bansal was also not examined. In this way, the best documentary evidence as well as the oral evidence in the shape of statement of

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Neeru Bansal was kept away from the Court to prove that there was legally enforceable debt, for which the cheque in question was issued. It being so, on this short ground, there is no ground to interfere in the impugned judgment. Hence, the leave to appeal is declined and the application for leave to appeal, filed under Section 378 (4) Cr.P.C., is dismissed.

(KULDIP SINGH)
JUDGE

4.2.2016
sjks