

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM No.A-307-MA of 2015 (O&M)
Date of decision: March 02, 2016

Smt.Renu Garg

...Applicant

Versus

Smt.Amarjeet Kaur

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Jagdish Manchanda, Advocate
for the applicant.

Mr.Ashit Malik, Advocate
for the respondent.

INDERJIT SINGH, J.

Applicant-Renu Garg has filed this application under Section 378(4) Cr.P.C. seeking permission for leave to appeal against respondent Amarjeet Kaur, challenging the impugned judgment dated 24.12.2014 passed by learned Sub Divisional Judicial Magistrate, Pehowa, whereby the accused-respondent was acquitted.

It is mainly stated in the application that accompanying appeal is likely to succeed on the grounds taken therein. It is, therefore, prayed that leave to appeal be granted.

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

I have heard learned counsel for the parties and have

gone through the record.

As per the record, the complainant Renu Garg filed a complaint against accused Amarjeet Kaur under Section 138 of the Negotiable Instruments Act, 1881. As per complainant's version, she is running the business of building material under the name and style of M/s Aggarwal Cement Store, Pehowa and she is sole proprietor of the same. It is further stated that in discharge of existing liability the accused issued a cheque bearing No.002109 dated 11.04.2009 of ₹1,20,000/- in favour of the complainant, which on presentation for encashment, was returned back as dishonoured with the remarks 'insufficient funds'. Legal notice was served upon the accused. When the amount was not paid, then the complaint was filed within limitation.

Learned SDJM, Pehowa, after appreciating the evidence, acquitted the accused-respondent vide impugned judgment dated 24.12.2014.

I have gone through the judgment dated 24.12.2014 passed by learned SDJM, Pehowa. The findings given by learned Magistrate, are correct as per evidence and law. There is nothing on the record to show that 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.

The accused has taken the defence that she had given the cheque by mentioning the digit ₹20,000/- to the complainant and the complainant made the cheque for ₹1,20,000/-.

Learned Magistrate, after discussing the statement of DW-1 Sunil Verma, Handwriting and Fingerprint Expert, held that his statement could not be shaken even after the cross-examination by the complainant. The Court further held that moreover a bare perusal of the cheque Ex.C1 from the naked eyes reveals that initially the cheque has been issued for ₹20,000/- and the said amount has been subsequently altered to ₹1,20,000/- by adding digit '1' in front of '20,000' with different pen and ink.

I have also gone through the original cheque in the lower Court record. The amount of ₹20,000/- has been altered to ₹1,20,000/- by adding digit '1'. The amount in words and the name of payee is in other ink and colour. The report of expert has duly proved this fact by comparing the handwriting etc. As the cheque has been materially altered, therefore, learned Court below has correctly acquitted the accused.

In view of the above discussion, I find that the findings given by learned SDJM, Pehowa, in no way, can be held as perverse. The impugned judgment dated 24.12.2014 passed by learned SDJM, Pehowa, is correct, as per law and evidence and does not require any interference from this Court.

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.

March 02, 2016
Vgulati

(INDERJIT SINGH)
JUDGE