

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

CRM No.A-454-MA of 2014 (O&M)

Date of decision: July 29, 2016

Puran Singh

...Applicant

Versus

Rohtash Ranga

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Narender Kaajla, Advocate
for the applicant.

INDERJIT SINGH, J.

Applicant-Puran Singh has filed this application under Section 378(4) Cr.P.C. seeking permission for leave to appeal against respondent Rohtash Ranga, challenging the impugned judgment dated 20.01.2014 passed by learned Judicial Magistrate Ist Class, Hisar, 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 judgment of acquittal has caused injustice to the applicant. It is , therefore, prayed that leave to appeal be granted.

As per the record, the complainant Puran Singh filed a complaint against accused Rohtash Ranga under Section 138 of the Negotiable Instruments Act. As per the complainant's version, accused for discharging an existing and legally enforceable liability, had issued a cheque bearing No.043356 dated 12.03.2010 for a sum of ₹80,000/- in

in favour of the complainant, which on presentation for encashment, was

returned back unpaid with the remarks 'Insufficient Funds'. Legal notice was issued. When the payment was not made, then the complaint were filed within time.

The accused was summoned and notice of accusation for commission of offence under Section 138 of the Negotiable Instruments Act was served upon the accused. In the statement under Section 313 Cr.P.C., the accused stated that complaint is false one and the witnesses are deposing falsely against him. In defence, accused examined DW-1 Baljeet Singh, Clerk and DW-2 Lady Constable Saroj Rani and also tendered documents Ex.D6 to Ex.D8.

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

From the record, I find that learned JMIC, Hisar, after appreciating the evidence, acquitted the accused-respondent vide judgment dated 20.01.2014 by holding that complainant has not disclosed as to how and when the liability of the accused has arisen i.e. origin of the liability has not been disclosed in the present case. Even in the sworn affidavit, the complainant has not disclosed the origin of the liability and reiterated the contents of the complaint. In cross-examination, the questions were put to the complainant and he has deposed that the amount was borrowed by the accused but perusal of whole cross-examination does not suggest as to what amount was actually borrowed by the accused. No particulars of the loan amount have been given.

No document has been executed at the time of granting the loan. No receipt etc. was taken. No security document was got executed.

There is no other document to show that from where this amount came to

complainant i.e. whether he withdrew from the bank or it was lying with him.

Learned trial Court further held that perusal of cross-examination of PW-1 shows that he has deposed to the effect that the amount was borrowed by the accused and for that he (accused) had issued the cheque in question. He further deposed that the cheque in question was issued by the accused when the accused borrowed the amount from him. The Court held that by deposing these facts, the complainant has admitted that accused had issued security cheque and had not given the cheque for discharging liability.

The perusal of the judgment passed by the Court below shows that the findings have been given as per evidence and law. In no way, the judgment can be held as perverse or against the evidence. 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.

Keeping in view the above discussion, I find that findings have been given after appreciating the evidence in right perspective. In no way, the findings can be held as perverse. The impugned judgment dated 20.01.2014 passed by learned JMIC, Hisar, 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.

July 29, 2016
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned

Yes

Whether reportable

No