

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

CRM-A-452-MA-2015 (O&M)

Date of decision: 15.02.2016

Ram Chander

.....Applicant

versus

Krishan Thapar

.....Respondent

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.Parminder Singh , Advocate for the applicant

- 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)

CRM No. of 9345 of 2015

For the reasons mentioned in the application, it is allowed and 58 days delay in filing the application for grant of leave to appeal stands condoned.

CRM-A-452-MA-2015

Preliminary arguments heard.

This is an application for leave to appeal against the judgment of acquittal dated 5.11.2014, passed by the learned Judicial Magistrate 1st Class, Karnal, whereby the accused -respondent was acquitted of the offence punishable under Section 138 of Negotiable Instruments Act, 1881.

According to the complainant, he had advanced a loan of

Rs.4 lacs to the accused in June 2010 for which the accused issued a cheque bearing No.037134 dated 28.12.2010 for Rs.4,00,000/- drawing at HDFC Bank Karnal. However, when the cheque was presented in the Bank, it was returned with the remarks "payment stopped by the drawer". The lower Court acquitted the accused on the ground that according to the complainant, the said amount of Rs.4 lacs was borrowed from the commission agent shop, namely, Ram Sarup Vijender Kumar. The commission agent was examined as DW2 along with the accounts books and no entry of advancing the said loan was found there, either by the complainant or by his brother, who is also co-partner in the said firm. Further it also comes out that date of the cheque is 28.12.2010 but its payment was stopped by the accused on 10.12.2010 which makes it evident that the payment in question was stopped by the accused before the issuance of cheque. The case of the complainant is that duly filled cheque was given to him whereas the accused has taken a stand that the cheque in question is misused by the complainant. This fact also shows that probably the complainant procured the cheque from some sources by unfair means and misused it. Therefore, story of the complainant was rightly disbelieved by the lower Court. The lower Court has taken one of the two possible views. There is no illegality or perversity in the same.

Resultantly, the application for grant of leave to file appeal stands dismissed.

15.02.2016*gk***(Kuldip Singh)
Judge**