

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM No.A-683-MA of 2014 (O&M)
Date of decision: February 18, 2016

Narpinder Singh

...Applicant

Versus

Amit Puri

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.D.S.Randhawa, Advocate
for the applicant.

INDERJIT SINGH, J.

Applicant-Narpinder Singh has filed this application under Section 378(4) Cr.P.C. seeking permission for leave to appeal against respondent Amit Puri, challenging the impugned judgment dated 07.02.2014 passed by learned Judicial Magistrate Ist Class, Ludhiana, 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 further stated that learned JMJC, Ludhiana has wrongly passed the judgment dated 07.02.2014 whereby the accused-respondent has been acquitted from notice of accusation served upon him under Section 138 of the Negotiable Instruments Act. It is, therefore, prayed that leave to file appeal be granted.

I have heard learned counsel for the applicant and have

gone through the record.

As per the record, the complainant Narpinder Singh filed a complaint against accused Amit Puri under Section 138 of the Negotiable Instruments Act. As per complainant's version, accused has taken ₹70,000/- as friendly loan for domestic purpose with a promise to return the same at the earliest. On repeated requests to return the money, accused issued a cheque bearing No.501137 dated 26.05.2011 for a sum of ₹70,000/-, which on presentation for encashment, was returned back dishonoured with the remarks 'Account Closed'. Legal notice was served upon the accused. When the payment was not made, then the complaint was filed.

The complainant produced the evidence in support of his case. Accused in the statement under Section 313 Cr.P.C. has stated that he is innocent and falsely implicated by the complainant in this complaint. He further pleaded that he had never issued any cheque to the complainant nor taken any loan from him. He also stated that complaint filed by the complainant is debarred due to limitation and also the cheque has been fabricated by the complainant.

After appreciating the evidence, learned Judicial Magistrate Ist Class, Ludhiana, acquitted the accused-respondent vide impugned judgment dated 07.02.2014.

The perusal of the record shows that the cheque was dishonoured on 28.05.2011. The legal notice dated 09.06.2011 was sent through 'RC/AD' dated 10.06.2011 and the complaint has been filed on 01.08.2011. The Court below from the evidence on record

held that complaint has been filed 16 days after the actual period had expired. The Court further held that cheque had been altered at point Mark-'A' on Ex.C1 i.e. date has been altered. As per the bank memo, the cheque has been dishonoured due to 'Account Closed'. As per version of CW-2 Mohammad Irfan, Assistant Manager, IDBI Bank, Ex.C5 shows that the date of instrument is 06.05.2011. Therefore, when this document has been duly proved by the witness of the complainant itself, then this shall supersede the memo of dishonour of cheque, which is Ex.C2. The Court below also held that according to Ex.C5, the date of cheque is 06.05.2011 but as per Ex.C1, original cheque, the date is 26.05.2011, which shows that alteration has been done by the complainant at a later stage.

Furthermore, there is no particular regarding the loan as to when it was given. No date, month or year has been mentioned in the complaint nor anything is mentioned as to whether the amount was paid in cash or through cheque etc. nor there are any particulars that in whose presence and at which place the amount was given. The complainant's version is not supported by any documentary evidence. As the alteration of the cheque, as found by learned JMIC, has been done, therefore, the accused has been rightly acquitted by the Court below and the presumption under Section 139 of the Negotiable Instruments Act has been duly rebutted.

In view of the above discussion, I find that the findings given by learned JMIC, Ludhiana, are correct, as per evidence and law. In no way, the findings given by learned Court below, can be held

as perverse. The impugned judgment dated 07.02.2014 passed by learned JMIC, Ludhaina, 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.

February 18, 2016
Vgulati

(INDERJIT SINGH)
JUDGE