

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

CRM No.A-701-MA of 2015 (O&M)

Date of decision: October 22, 2016

Ram Singh

...Applicant

Versus

Mohit Networking Future (P) Ltd. and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.R.K.Saini, Advocate
for the applicant.

None for the respondents.

INDERJIT SINGH, J.

Applicant-Ram Singh has filed this application under Section 378(4) Cr.P.C. seeking permission for leave to appeal against respondents Mohit Networking Future (P) Ltd. and Sh.Rajbir Singh Dahiya, challenging the order dated 04.02.2015 passed by learned Judicial Magistrate Ist Class, Karnal, vide which the complaint filed by the complainant was dismissed.

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 learned JMJC, Karnal, has erred in dismissing the complaint on the ground of maintainability. It is, therefore, prayed that leave to appeal be granted.

Notice of motion was issued and learned counsel for the

respondents appeared and contested the application.

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

From the record, I find that a complaint was filed by Ram Singh against Mohit Networking Future (P) Ltd. and Sh.Rajbir Singh Dahiya, Managing Director, under Section 138 of the Negotiable Instruments Act. The complaint was dismissed by learned JMIC, Karnal vide order dated 04.02.2015.

The perusal of the impugned order dated 04.02.2015 shows that the accused was not summoned yet. Rather, it is in the order that on that day, the case was fixed for arguments on the point of summoning. Therefore, the dismissal of the complaint before summoning of the accused, in no way, amounts to acquittal of the accused. Hence, against the impugned order dated 04.02.2015 passed by learned JMIC, Karnal, the appeal is not maintainable as the impugned order does not amount to acquittal. As the appeal is not maintainable, the question of granting leave to appeal does not arise.

In view of the above discussion, the present application stands dismissed being not maintainable.

October 22, 2016
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No