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

CRM-M-13480-2016**Date of decision: 25.05.2016****LAKSHMAN****..... Petitioner****Versus****NAFE SINGH RAVISH****..... Respondent****CORAM: HON'BLE MR. JUSTICE KULDIP SINGH**

Present: Mr. Man Mohan, Advocate,
for the petitioner.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

KULDIP SINGH J. (ORAL)

The petitioner has impugned the order dated 13.01.2016 passed by Learned Sessions Judge, Kurukshetra vide which revision filed by the respondent was allowed and the order of the lower Court dated 08.09.2015 ordering the framing of the charge against the respondent under Section 406 IPC was set aside and consequently the complaint stood dismissed.

In nutshell, according to the complainant, he had borrowed ₹ 1,00,000/- from the accused-respondent as loan amount and handed over two blank cheques to the accused duly signed by him. The loan was to be repaid in installments. The accused also took the signatures of the complainant on some printed and blank papers. According to the complainant, he had returned the loan amount. However, the accused filled in one blank cheque for encashment of the amount but same was dishonoured and the accused filed criminal complaint under Section 138 of Negotiable Instruments Act, 1881, which is still pending. When the complainant alongwith panchayat approached the accused to settle the dispute and withdraw the complaint, he used filthy language and also gave

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fist and slap blows to the complainant. The respondent was initially summoned under Section 406 read with Section 323 IPC. However, after recording the pre-charge evidence, the learned Judicial Magistrate Ist Class, Kurukshetra ordered to frame charges under Section 406 IPC.

I have heard learned counsel for the petitioner.

I am of the view that order of the learned Sessions Judge, Kurukshetra, is perfectly in accordance with law. It was a case where in order to prevent the misuse of process of revisional Court should have interfered. Here according to the accused, two blank cheques were given to the petitioners in lieu of the loan of ₹ 1,00,000/- advanced by the accused to the complainant.

During the pre-charge evidence, complainant has also produced the receipts Ex. C1 to Ex. C713, showing that he has repaid the amount of ₹98,100/-. However, two cheques are for ₹2,82,000/- and ₹1,79,800/-, which means that according to the complainant the said amount was borrowed by him. Therefore, there is a dispute as to how much amount was borrowed. The cheques were voluntarily given by the complainant to the accused as a security for the loan. These cheques were duly signed by him and left blank which means he had given authority to the accused to fill in the amount on the said cheques. Now, if the accused in place of returning the cheques, files the criminal complaint under Section 138 under Negotiable Instruments Act, 1881 on the basis of said cheques, it cannot be said that the cheques were misappropriated and offence under Section 406 IPC is attracted. The complaint filed by the present petitioner is nothing but misuse of process of Court, rather a

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counter blast to the complaint filed by the accused under Section 138 of the Negotiable Instruments Act, 1881.

In view of the above, no ground is made out for any interference in the impugned judgement.

Accordingly, the petition stand dismissed.

(KULDIP SINGH)
JUDGE

May 25, 2016
Suresh Kumar