

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

CRR No.3018 of 2012 (O&M)

Date of decision: 17.02.2016

Chhabeg Singh

.....Petitioner

versus

Amarjit Kaur

.....Respondent

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.R.S.Mamli, Advocate for the petitioner
Mr.Ashwani Verma, Advocate for the respondent

- 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)

Impugned in the present revision is the judgment dated 8.8.2012 passed by the learned Additional Sessions Judge, Fatehabad, affirming the judgment of acquittal dated 8.5.2009 passed by the learned Judicial Magistrate 1st Class, Fatehabad.

In short, the present petitioner has filed a complaint under Section 138 of the Negotiable Instruments Act, 1881, alleging that in discharge of her liability, the accused Amarjit Kaur wife of Malkit Singh had issued a cheque dated 3.12.2008 for Rs.4,00,000/- in favour of the complainant – petitioner herein. When the cheque was presented to the bank, it was returned with the remarks 'insufficient funds'.

After recording the evidence and hearing both the parties,

the learned Magistrate came to a conclusion that legally enforceable debt is not proved. It was held that the complainant is a commission agent. Reliance was also placed on the statement of Dharam Pal DW2, Munim of the said firm, wherein account standing in the name of the Malkit Singh, husband of the accused, stood fully settled as on 31.3.2007. The learned Magistrate also held that Dharam Pal Munim had admitted in his re-examination that cheque was filled in by him at the instance of the accused. Meaning thereby that a blank cheque was in possession of the complainant. However, the complainant in his cross-examination stated that cheque was not filled in his presence, the same was already filled. It also comes out that Malkit Singh was living in Australia and in his absence the agricultural work of Malkit Singh was being looked after by the accused. The learned Magistrate also repelled the arguments advanced on behalf of the complainant that on account of relationship, no entry was made in the accounts book and further that earlier also there was some transaction of Rs.75,000/- between the same parties which was honored.

After considering the facts and circumstances, I tend to concur with the findings recorded by both the Courts below. In this case, the complainant is a commission agent. Even though Malkit Singh husband of the accused was stated to be related to him but even then complainant decided to open his account and maintain the same in the regular course of business. Then there is no reason why special favour was shown to his wife. Admittedly, in this case, the cheque was filled in later on by the munim of the complainant at the

instance of accused shows that the cheque was already available with the complainant. In the accounts books, the account of the husband of accused was shown to be nil. Therefore, it comes out that lower Court has taken one of the two possible views and there is no illegality or perversity in the same. Therefore, there is no ground to interfere in the concurrent findings of acquittal recorded by both the Courts below.

Consequently, the present revision petition stands dismissed.

17.02.2016*gk***(Kuldip Singh)
Judge**