

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR No. 1960 of 2013 (O&M)
DECIDED ON: MARCH 01, 2016

NARESH MAHAJAN

.....PETITIONER

VERSUS

RAVI PAL

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

1. Whether Reporters of local papers 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?

Present: Mr. Vikram Anand, Advocate
for the petitioner.

JASPAL SINGH, J

CRM No. 29967 of 2015

In view of averments made in the application the same is allowed and delay of 105 days' in filing the instant revision petition is condoned.

CRR No. 1960 of 2013 (O&M)

Instant revision petition has been preferred by Naresh Mahajan feeling dis-satisfied from the judgment dated January 16, 2009 passed by learned Chief Judicial Magistrate, Jalandhar whereby, respondent has been convicted for commission of an offence punishable under Section 138 of Negotiable Instruments Act (for brevity 'Act') in a complaint case titled *Naresh*

Mahajan v. Ravi Pal, which has been subsequently upheld by lower Appellate Court vide its judgment dated November 08, 2012.

2. At the very outset, it would be pertinent to mention that a complaint under Section 138 of the Act was instituted by Naresh Mahajan-petitioner against the respondent-accused. On the strength of preliminary evidence adduced by the complainant, respondent-accused was ordered to be summoned under Section 138 of the Act vide order dated October 17, 2002 and finding a *prima facie* case, notice was served upon the accused under Section 138 of the Act to which he pleaded not guilty and claimed trial and the complainant was asked to substantiate the contents of the notice.

3. After hearing learned counsel for the parties and appraisal of evidence respondent-accused was acquitted of the charge vide judgment dated January 16, 2009 passed by learned Chief Judicial Magistrate, Jalandhar.

4. Aggrieved against the acquittal of the respondent, Naresh Mahajan preferred an appeal which was also dismissed by lower Appellate Court vide its judgment dated November 08, 2012.

5. Disheartened with the judgments passed by both the courts below, petitioner has approached this Court by way of instant revision petition.

6. Section 378 of the Code of Criminal Procedure deals with the appeal in case of acquittal. Sub section 4 of Section 378 of the Code of Criminal Procedure is relevant against the acquittal, which clearly provides that if an order of acquittal is passed in any case instituted upon complaint and the High Court, on an application made to it by the complainant in this behalf, grants special leave to appeal from the order of acquittal, the complainant may present such an appeal to the High Court. But in the instant case no application seeking

grant of special leave to appeal against the order of acquittal has been moved as enshrined under Section 378(4) of the Code of Criminal Procedure. Rather, a close scrutiny of the file transpires that the judgment of acquittal passed by learned Chief Judicial Magistrate, Jalandhar was challenged before the lower Appellate Court by way of an appeal which stands also dismissed vide judgment dated November 08, 2012.

7. Thus, the revision petition preferred by the complainant is not maintainable and is liable to be dismissed. Moreover, no application under Section 378(4) of the Code of Criminal Procedure seeking grant of special leave to appeal has been preferred by the aggrieved person i.e. complainant. Thus in such circumstances, instant revision petition is not maintainable, as such the same is dismissed.

MARCH 01, 2016
sham

(JASPAL SINGH)
JUDGE