IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

270 **CRR-2206 of 2013 (O&M)**
Date of decision : 06.12.2016

Nirmal Kaur ...... Petitioner

versus

Krishan Pal ...... Respondent

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

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Present : Mr. Ashutosh Kaushik, Advocate
for the petitioner.

Mr. Kamal Kant Aggarwal, Advocate
for the respondent.

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AJAY TEWARI, J. (Oral)

This appeal has been filed against the impugned order dated 18.4.2013 passed by the Revisional Court whereby the revision petition of the respondent-accused was allowed and the charge-sheet framed against him was quashed.

The petitioner's case was that the respondent knew her being a co-villager and came to her and induced the petitioner that being an agent of loan company he can arrange a loan for her at a very cheap rate of interest. For that purpose, the petitioner had signed some documents and handed over to the respondent-accused The respondent-accused opened an account in the name of petitioner and her husband in the Punjab National Bank, Bir Amin Branch and deposited an amount of Rs. 2000/- as an initial deposit. The cheque book was also issued. Thereafter, the respondent-accused also got signatures of the petitioner on some cheques and kept them with him by saying that for sanctioning of loan cheques are required. After few days petitioner went to the bank and it was disclosed that a sum of Rs. 2,44,000/- had been credited into her account and had been withdrawn though one of the cheques signed by her. The trial Court came to the conclusion that actually the petitioner and her husband had taken a loan for a truck and that loan had been arranged by the respondent and the cheque amount was misused by him. The Revisional Court was influenced by the fact that the petitioner even did not complain that the truck was taken into illegal possession by the persons of the respondent. In these circumstances, the Revisional Court held that the trial court had erred in framing the charge against the respondent.

I find another strangeness in this case. As per the petitioner the amount of Rs.2,44,000/- was a loan given to the petitioner which was illegally withdrawn by the respondent. However it is admitted by the learned counsel for the petitioner that the petitioner has never repaid or has never been asked to repay that amount of Rs.2,44,000/- which was credited in her account. Once that is so it can not be held that the amount of Rs.2,44,000/- belonged to the petitioner. It is also not disputed that the respondent withdrew this amount through a cheque which was signed by the petitioner. In the circumstances, the offence of forgery is not made out and as regards cheating once the petitioner has not been able to show that the amount of Rs.2,44,000/- either belonged to her or ever became a liability on her, it cannot be said that the respondent deprived her of her property.

Learned counsel for the petitioner has relied upon ***State of Bihar Vs. Ramesh Singh, 1977 AIR 2018*** and ***Kanti Bhadra Shah and Another Vs. State of West Bengal, 2000 (1) SCR 27.*** In both these cases the Supreme Court had held that for the purpose of framing of charge only the existence of a prima-facie case is required and the Court can not be influenced by the fact that, there is a possibility of conviction. He has argued that both these facts find mention in the order of the revisional Court.

That may be so but once the learned counsel for the petitioner is not in a position to deny that the amount of Rs.2,44,000/- did not belong to her and that the petitioner had handed over signed cheques to the respondent the offence of forgery and cheating can not be made out.

I see no reason to take different view as that taken by the Revisional Court.

Consequently, the petition stands dismissed.

Since the main case has been decided, the pending criminal miscellaneous application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

December 06, 2016
anuradha/pooja sharma-I

Whether speaking/reasoned Yes/No

Whether Reportable : Yes/No