

In the High Court of Punjab and Haryana at Chandigarh

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(1) Criminal Revision No.4897 of 2015 (O&M)

.....

Date of decision:12.2.2016

Rajan Grover

...Petitioner

v.

Youshvir Abrol

...Respondent

....

(2) Criminal Revision Nos.4899, 4900, 4904, 4919, 4920, 4932, 4933, 4934
and 5024 of 2015 (O&M)

....

Rajan Grover

...Petitioner

v.

Youshvir Abrol

...Respondent

....

(3) Criminal Misc. No.M-1712 of 2016

.....

Rajan Grover

...Petitioner

v.

State of Haryana

...Respondent

.....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Sandeep Vema, Advocate for the petitioner.

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Inderjit Singh, J.

This order will dispose of the above mentioned 10 criminal
revision petitions filed under Sections 397 and 401 Cr.P.C.challenging the
10 impugned separate judgments dated 15.10.2015 passed by learned

Additional Sessions Judge, Gurgaon, whereby the appeals filed by the petitioner against the judgments of conviction and the orders of sentence dated 11.8.2014/12.8.2014 passed by the learned Judicial Magistrate Ist Class, Gurgaon, convicting and sentencing the petitioner for the offence under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter referred to as 'the NI Act') for (undergoing rigorous imprisonment for six months and to pay compensation of ₹17,50,000/- to the complainant in Criminal Revision No.4897 of 2015), have been dismissed. This order will also dispose of Criminal Misc. No.M-1712 of 2016, which has been filed by the petitioner under Section 427 read with Section 482 Cr.P.C., for issuance of directions to the respondent to the effect that the sentences awarded by learned Judicial Magistrate Ist Class, Gurgaon under Section 138 of the NI Act vide judgments and orders dated 11.8.2014/12.8.2014 in criminal complaint Nos.913 of 2013, 914, 968, 1062, 1063, 1064, 1065, 1093, 1107 and 1134 of 2013 titled as “Youdhvir Abrol Versus Rajan Grover”, whereby the petitioner has been convicted with rigorous imprisonment for various time duration in the aforesaid complaints, be made to run concurrently.

The facts have been taken from Criminal Revision No.4897 of 2015. Record of the lower Courts was also summoned.

I have learned counsel for the petitioner and have gone through the record.

From the record, I find that of the judgments passed by the Courts below are correct as per evidence and law. No illegality has been committed by the Courts below. Nothing has been pointed out as to how the

judgments passed by the Courts below are perverse or against the evidence. Nothing has been pointed out as to which material evidence has been misread by the Courts below and as to which material evidence has not been considered in right perspective by the Courts below. The concurrent findings are already against the present revision petitioner.

I have gone through the record and find that the accused in the statement under Section 313 Cr.P.C. has not raised any probable defence. He has simply stated that he is innocent and false complaints have been filed against him.

On the other hand, the case of the complainant, as stated in the judgments passed by the learned Judicial Magistrate Ist Class, Gurgaon, is that the accused had issued cheques for discharging his liability regarding repayment of loan amount which the accused had borrowed from the complainant. The said cheques were accordingly presented within the period of its validity but the same were dishonoured.

The brief facts of the case as stated in the judgment of the learned Judicial Magistrate Ist Class, Gurgaon are as under:-

“2. Case of the complainant as pleaded in the complaint is that in the month of January 2012, accused approached the complainant and represented that he is in need of ₹1,50,00,000/- (Rupees One Crore Fifty Lacs Only) for purchasing a property in Gurgaon. The accused further represented that he will pay monthly interest on the above said amount and assured the complainant that he will repay the amount as and when the complainant shall demand.

Accordingly, on the assurances and representations of the accused, the complainant gave the following amounts to the accused:-

- i. ₹30,00,000/- (Rupees Thirty Lacs Only) on 14.01.2012.
- ii. ₹36,00,000/- (Rupees Thirty Six Lacs Only) on 23.01.2012.
- iii. ₹15,00,000/- (Rupees Fifteen Lacs Only) on 14.03.2012.
- iv. ₹50,00,000/- (Rupees Fifty Lacs Only) on 04.06.2012.
- v. ₹10,00,000/- (Rupees Ten Lacs Only) on 01.10.2012.
- vi. ₹11,50,000/- (Rupees Eleven Lacs Fifty Thousand Only) on 01.10.2012.

Total ₹1,52,50,000/- (Rupees One Crore Fifty Two Lacs Fifty Thousand only).

3. The accused duly acknowledged the receipt of the said amounts and assured timely repayment. The accused defaulted in the payment of the agreed interest. Thereafter, the accused in discharge of his lawful liability issued several cheques in favour of complainant and assured that the same shall be duly encashed. Thereafter, at the request of accused person, the complainant and accused entered into a Memorandum of Understanding dated 27.01.2013 wherein the accused agreed to pay a sum of ₹1,52,06,000/- (Rupees One Crore Fifty Two Lacs and Six Thousand only). The accused again defaulted in payments as mentioned in the memorandum of understanding dated 27.01.2013 and requested for extension of time for repayment. Hence, an addendum to memorandum of

understanding dated 27.01.2013 was entered into between complainant and accused on 06.05.2013. In the said addendum, accused agreed to repay the pending dues with interest and issued cheques as mentioned in the said addendum. The accused in discharge of his lawful part liability handed over the present cheque to the complainant. The said cheque is bearing No.586986 dated 26.07.2013 amounting to ₹15,50,000/- (Rupees Fifteen Lacs Fifty Thousand only) and is drawn on HDFC Bank, Gurgaon. The complainant presented the above mentioned cheque to his banker but the same was returned unpaid vide memo dated 24.09.2013, with the remarks Account Blocked. The complainant served upon the accused a demand-cum-legal notice dated 27.09.2013 demanding payment within 15 days. The said legal notice was returned back with the report of refusal, which is deemed to be duly received. Despite that the accused did not make the payment of cheque in question. Hence the present complaint.”

From the perusal of the findings given by the learned Judicial Magistrate Ist Class, Gurgaon, I find that the complainant has duly proved the memorandum of understanding dated 27.1.2013, wherein the accused agreed to pay ₹1,52,06,000/-. The complainant has also proved on record the addendum to memorandum of understanding, which is dated 6.5.2013. Legal notice was also sent to the accused but no reply was given by the accused.

At the time of arguments, learned revision petitioner admitted his signatures on the documents memorandum of understanding and also to the addendum, but now he raised the arguments that the signatures of the accused were obtained on blank papers, and on these papers the documents were created later on, but in his statement recorded under Section 313 Cr.P.C. no such plea has been taken. The accused himself has not come to the witness box to depose regarding these facts. There is no other evidence on record to show that the accused has raised this probable defence.

Learned counsel for the revision petitioner also argued that he had taken only some amount from the complainant through RTGS and that has been returned. But even this plea has also not been taken in the statement under Section 313 Cr.P.C. Learned counsel for the petitioner has further admitted the signatures of the accused on the cheques, but he stated that these blank cheques have been given during some business dealings, but even this plea has not been taken in the statement recorded under Section 313 Cr.P.C., which means that the accused has not raised any probable defence in these cases. The mere arguments of the learned counsel for the revision petitioner before this Court without raising any probable defence by the accused are not sufficient.

The learned Judicial Magistrate Ist Class, Gurgaon, has discussed the evidence in right perspective and correctly as per law. The findings given by the learned appellate Court are also correct as per evidence and law and do not require any interference from this Court. Both the impugned judgments, in all these cases, in no way, can be held as illegal

or perverse.

Therefore, from the above, I find that the findings given by the Courts below regarding conviction of the revision petitioner are correct and do not require interference from this Court and the same are upheld. Hence, the criminal revision petitions are dismissed.

Cr. Misc. No.M-1712 of 2016:

Learned counsel for the petitioner further argued that the sentence awarded to the accused in all these criminal complaints be ordered to run concurrently.

At the time of arguments, learned counsel for the petitioner admitted that these 10 complaints in which the cheques were issued and dishonoured and three more complaints are pending. The learned Judicial Magistrate Ist Class, Gurgaon, has already discussed that there are so many other complaints and he is habitual offender.

Keeping in view the above facts, I do not find any ground to pass order to run the sentence concurrently. Therefore, from the above discussion, finding no merit in this criminal miscellaneous petition also, the same is also dismissed.

February 12, 2016.

(Inderjit Singh)
Judge

hsp