

\$~35

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CRL.REV.P. 255/2014

R C P SINHA

..... Petitioner

Through : Ms. Kheyali and Mr. R. K. Kapoor,
Advs.

versus

LAKSHMI CHAUDHARY & ANR

..... Respondents

Through : Ms. Praveen Naagar and Ms. G.
Singh, Advs. for R-1.

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

%

26.10.2016

Crl.M.A. Nos.6976/2014 & 12012/2014 (delay in refiling)

For the reasons as stated in the applications, delay in refiling is
condoned.

Applications are disposed of.

CRL.REV.P. 255/2014

Petitioner filed complaint case no.96/02 before learned metropolitan magistrate, Saket Courts, New Delhi against respondent by alleging therein that respondent induced the petitioner to pay him ₹80,000/- vide two cheques bearing nos.26689 dated 2nd June, 1990 and 26690 dated 2nd July, 1990 for ₹50,000/- and ₹30,000/- respectively issued in favour of M/s. Laxmi Electronics of which respondent was the sole proprietor. Petitioner

produced and proved certified copies of the cheques as Ex.CW-1/A and Ex.CW-1/B, statement of account of M/s. Laxmi Electronics as Ex.CW-1/D and statement of account of M/s. Kautilya Housing Society as Ex.CW-1/E. Petitioner contended that loan amount was not re-paid. Respondent had no intention to repay the amount, even when money was taken by her from the petitioner, thus, she had cheated the petitioner.

Respondent took a defence that ₹80,000/- vide the aforesaid cheques, was paid by M/s. Kautilya Group Housing Society to M/s. Laxmi Electronics towards the goods purchased by the said surety from the respondents' firm. Learned metropolitan magistrate observed that respondent had failed to prove that M/s. Kautilya Group Housing Society had purchased goods from M/s. Laxmi Electronics and payment of ₹80,000/- was made towards the discharge of the said liability. Trial court convicted the respondent under Section 420 IPC, by accepting the plea of the petitioner that loan amount was not repaid thus respondent had cheated the petitioner.

Respondent preferred appeal before the learned Additional Sessions Judge-03, South District, Saket Courts, New Delhi, which was allowed and respondent has been acquitted vide judgment dated 19th November, 2013.

Aggrieved by the judgment of learned Additional Sessions Judge, petitioner has preferred this revision.

The appellate court has held that no amount was paid by the petitioner from his personal account to respondent. The payment was made from the account of M/s. Kautilya Group Housing Society Ltd of which petitioner claimed himself to be ex-secretary. The society had not filed the complaint alleging cheating nor was impleaded in the complaint. Petitioner even did not lead any evidence to show that he was secretary of the Society. No authorization letter of the society was placed on record. No amount was paid by the petitioner to respondent towards loan. Transaction was between M/s. Kautilya Group Housing Society and respondent but the society had not raised any grievance against the respondent.

I do not find any illegality and impropriety in the findings of appellate court, which is based on appreciation of evidence. Admittedly, petitioner had not paid any money to respondent nor can be claim himself to had been cheated.

Petition is dismissed.

A.K. PATHAK, J.

OCTOBER 26, 2016/dk