

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM No.A-1785-MA of 2016 (O&M)

Date of decision: September 19, 2017

Vishal Saini

...Applicant

Versus

Amarjeet Kaur

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Rajesh Gupta, Advocate
for the applicant.

INDERJIT SINGH, J.

Applicant-Vishal Saini has filed this application under Section 378(4) Cr.P.C. seeking permission for leave to appeal against respondent Amarjeet Kaur, challenging the judgment dated 30.08.2016 passed by learned Judicial Magistrate Ist Class, Ambala, whereby the accused-respondent was acquitted.

It is mainly stated in the application that accompanying appeal is being filed which is likely to succeed on the grounds taken therein. It is, therefore, prayed that leave to appeal be granted.

As per the record, the complainant Vishal Saini filed a complaint against accused Amarjeet Kaur under Section 138 of the Negotiable Instruments Act. As per complainant's version, accused and complainant are known to each other as complainant is having friendly

terms with husband of the accused. The accused and her husband in the

month of April 2014 approached the complainant and requested him for some financial help to meet their urgent need. The complainant advanced a sum of ₹5 lakhs to the accused and her husband on 19.04.2014 and they assured that they will return the said amount within six months. After the lapse of six months, the complainant on 29.11.2014, approached the accused and her husband and asked them to return the amount. Then the accused in discharge of legal liability, issued cheque bearing No.627402 dated 29.11.2014 for ₹5 lakhs in favour of the complainant, which on presentation for encashment was returned back dishonoured with the remarks 'Exceed Arrangements'. Legal notice was served. When the amount was not paid, then the complaint was filed within time.

Learned JMIC, Ambala, after appreciating the evidence, dismissed the complaint and acquitted the accused-respondent vide impugned judgment dated 30.08.2016.

Aggrieved from the above-said judgment, present appeal along with application for grant of leave to appeal has been filed.

I have heard learned counsel for the applicant and have gone through the record.

The perusal of the record shows that in the present case, several opportunities were given to the complainant to produce and complete his evidence. The complainant only examined himself in examination-in-chief and did not turn up for cross-examination. A detailed order has been passed by the Court below showing the opportunities given to the complainant. Even last opportunity was given on 16.03.2016 to the complainant to complete the evidence. There is no evidence on the record and chief-

having any opportunity to cross-examine the complainant, therefore, it means that no evidence has been produced by the complainant.

In view of the above discussion, I find that the impugned judgment dated 30.08.2016 passed by learned JMIC, Ambala, is correct, as per law and evidence and does not require any interference from this Court. No ground is made out for grant of leave to appeal and therefore, the present application stands dismissed.

September 19, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No