

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

Date of decision: 13.07.2017

CRM-A No.2107-MA of 2016 (O&M)

Ram Gopal

...Appellant

Vs.

Nathi Ram

...Respondent

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Anuj Balian, Advocate, for the appellant.

RAJIV NARAIN RAINA, J.

Unsuccessful complainant in case relating to offence punishable under Section 138 of the Negotiable Instruments Act, 1881 (in short 'the Act') is before this Court seeking leave to appeal against the judgment of acquittal dated 02.08.2016 rendered by the Judicial Magistrate Ist Class, Panchkula on the ground that the trial Court had made a mistake in recording the acquittal.

I have heard Mr. Anuj Balian and have perused the material findings recorded by the learned Judicial Magistrate Ist Class in Para.4 of the judgment. The relevant extract of which reads as follows:

"4. Case was fixed for evidence of complainant on 03.01.2014. Therefore, opportunity for CW was granted on 09.04.2014. In between the parties expressed willingness of compromising the matter. However, when no compromise was effected, again opportunity for CW was granted and until 30.07.2016 when 15 opportunities for complainant's evidence were granted upon request of the complainant, no evidence was produced. He never suffered statement to adopt the

preliminary evidence as post summoning evidence either. As a result, there is absolutely no evidence against the accused to support the allegations against him on the basis of which he was summoned. Hence, for lack of evidence the accused is acquitted. Bail bonds discharged. File be consigned after due compliance.”

The reasoning given by the learned trial Court is plausible reasoning derived on the basis of case record properly appreciated by it. The complainant failed to produce any evidence in spite of numerous opportunities. In the absence of any reliable and trustworthy evidence, the respondent cannot be convicted of the charges levelled against him. Thus, I do not find any error in the findings recorded by the learned trial Court, which may warrant consideration for grant of leave by way of appeal.

Moreover, there was a delay of 37 days in filing the instant application seeking leave to appeal.

Accordingly, the instant application for grant of leave to appeal is dismissed along with the application for condoning delay.

13.07.2017
Vimal

[RAJIV NARAIN RAINA]
JUDGE

Whether speaking/reasoned: *Yes*

Whether Reportable: *No*