

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

CRM No.A-1612-MA of 2015 (O&M)

Date of decision: July 07, 2017

Shri Mohinder Singh

...Applicant

Versus

Shri Veer Partap Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Raman Mahajan, Advocate
for the applicant.

Mr.Kamaljeet Singh Sidhu, Advocate for
Mr.Sanjeev Kumar Bawa, Advocate
for the respondent.

INDERJIT SINGH, J.

Applicant-Mohinder Singh has filed this application under Section 378(4) Cr.P.C. seeking permission for leave to appeal against respondent Veer Partap Singh, challenging the impugned judgment dated 22.07.2015 passed by learned Judicial Magistrate Ist Class, Dera Bassi, vide which 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 Mohinder Singh filed a complaint against accused Veer Partap Singh under Section 138 of the

Negotiable Instruments Act. As per complainant's version, due to family

relations, complainant advanced ₹62,000/- to the accused in July 2012 with the promise to return it within 15 days. The amount was handed over to the accused on 15.07.2012. The accused issued cheque bearing No.011521 dated 27.08.2012 amounting to ₹62,000/- in favour of the complainant, which on presentation for encashment, was returned back dishonoured, with the remarks 'Insufficient Funds'. Legal notice was served. When the amount was not paid, then the complaint was filed within time.

The complainant examined himself as CW-1 and closed the evidence. The accused in the statement under Section 313 Cr.P.C. denied all the incriminating evidence and pleaded his innocence and stated that cheque in dispute is a result of fraud. The signatures on the cheque in dispute are not appended by him. In defence, accused examined DW-1 Pardeep Bhagat, Assistant Manager, who proved the account opening form of the account belonging to accused Veer Partap. DW-2 Dr.Jassi Anand, Handwriting and Fingerprints Expert stated that she has compared the signatures of the accused on the cheque in dispute with his standard signatures and opined that the questioned signatures on the cheque do not belong to the accused.

Learned JMIC, Dera Bassi after appreciating the evidence, dismissed the complaint and acquitted the accused-respondent vide impugned judgment dated 22.07.2015.

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

Notice of the application was issued. Learned counsel for the respondent appeared and contested the application.

I have heard learned counsel for the parties and have gone

through the record.

Learned trial Court, from the perusal of the evidence, held that present complainant has also filed another complaint against the accused for taking loan of ₹2 lakhs from the complainant. There is no mention in the present complaint qua that transaction. Secondly, the Court held that Handwriting Expert after examining the standard signatures and questioned signatures opined that these signatures are not of the accused, which means that the cheque in dispute has not been issued by the accused.

Learned Magistrate also took note of the suggestion given by learned counsel for the complainant that the disputed signatures have been deliberately done in a manner that these look different from the standard signatures. Another suggestion given is that there are natural variations present between the disputed and the standard signatures. Learned Magistrate has also seen the signatures and found the same different. I have also seen the signatures on the cheque in dispute, which are different from the standard signatures, which can be seen even by the naked eye.

Learned trial Court also discussed that during cross-examination, the complainant had stated that he could produce his bill books, in which, the cash amount disbursed by him to the accused as a loan was reflected and the cross-examination was deferred with the direction to the complainant to bring the bill books. On the next date, the complainant admitted that in the bill books, the loan amount taken by the accused has not been mentioned. Similarly, the cheque has not been reflected in the bill books. The dishonored cheque does not find mention in the Income Tax Returns. It is further held by learned Magistrate that in the complaint it is mentioned that the loan amount had been advanced by the complainant to

the accused on account of family relations between them whereas in the

legal notice, it has been mentioned that the complainant had some business dealings with the accused and that the accused had been under a monetary liability towards the complainant

The perusal of the findings given by learned Magistrate shows that these have been given as per evidence and law. In no way, the findings can be held as perverse or against the evidence and law. Nothing has been pointed out as to which material evidence has been misread and which material evidence has not been considered by the Court below. Nothing has been pointed out as to how the findings are perverse or against the law and what illegality has been committed by learned Court below. The perusal of the judgment passed by the Court below shows that the findings have been given by correctly appreciating the evidence in right perspective.

In view of the above discussion, I find that the impugned judgment dated 22.07.2015 passed by learned JMIC, Dera Bassi, 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.

July 07, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No