

260

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

CRM-A-1750-MA of 2015 (O&M)

Date of decision: April 20, 2017

Ashok Kumar

.....Applicant

Versus

Balwinder Kaur and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE A.B. CHAUDHARI

Present: Mr. Naresh Gopal Sharma, Advocate for the applicant.

Mr. Pankaj Bali, Advocate for respondent No.1.

Mr. T.N. Sarup, Addl. AG Punjab.

A.B. CHAUDHARI, J (Oral)

Heard learned counsel for the rival parties.

This appeal is directed against the order at the behest of complainant in a case under Section 138 of the Negotiable Instruments Act, 1881.

The trial Court has essentially relied on the cross-examination of the complainant himself who gave several admissions in the cross-examination. It is necessary to quote the following portion from Para 14 of the judgment of the trial Court, which narrates cross-examination of the complainant which shows that the complainant gave all damaging answers in the cross-examination:-

“xxxx. In this regard, the cross-examination of the complainant is quite material. In his cross-examination, he deposed that he is not income tax assessee and he has one

bank account at SBI G.T. Road Khanna and bank account of his wife is at UCO Bank, Mandi Gobindgarh. He further deposed that he had Rs.5,000/- in the bank account at SBI. He further deposed that he did not withdraw Rs.90,000/- from any account in the year 2012 and he did not give money to Balwinder Kaur/accused. He further deposed that he cannot tell anything about his wife of borrowing amount by Balwinder Kaur. He further deposed that he cannot tell the exact date when he gave the money to Balwinder Kaur. On that day, he took the signatures of Balwinder Kaur on one pronote as well. He further deposed that he do not know for what purpose Balwinder Kaur needed money nor he asks. Even no rate of rent was settled between the parties. He further deposed that he cannot tell when Balwinder Kaur gave him the cheque and nobody was present at that time. He further admitted this fact that the account of Balwinder Kaur was opened at the introduction of his wife. He further deposed that one Jarnail Singh was working at UCO Bank, Mandi Gobindgarh, who is now retired, at the time when the account of Balwinder Kaur was opened. He has attraction with that Jarnail Singh. He further deposed that Balwinder Kaur signed the cheque at once. He further deposed that the cheque was already filled and accused handed over the cheque to him and the cheque was not filled in his presence. He further deposed that in the year 2012, his monthly income was Rs.7,000/- to Rs.8,000/- per month from photography under the name and style Ashoka. He further deposed that he has no permanent shop and he is a field worker.”

In that view of the matter, the benefit of doubt was extended by the trial Court for acquitting the respondent. Since the

complainant himself spoiled his own case, I do not find any merit in the present appeal against acquittal.

Hence, no ground is made out to grant leave to file an appeal. Accordingly, this application is dismissed.

(A.B. CHAUDHARI)
JUDGE

April 20, 2017
mahavir

Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No