

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-A-1888-MA-2015 (O&M)

Date of decision: 06.09.2017

Dalmir Singh

..... Appellant

Versus

Amarjit Singh Mattharoo

..... Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. Harsh Manocha, Advocate for the applicant.

RAMENDRA JAIN, J. (ORAL)

1. Through this application under Section 378 (4) read with Section 372 Cr.P.C., prayer has been made for grant of leave to file appeal against the impugned judgment of acquittal dated 10.09.2015, passed by the learned Judicial Magistrate Ist Class, SAS Nagar (Mohali).

2. In nutshell, the applicant filed a complaint under Section 138 of the Negotiable Instruments Act, 1881 (for short 'the Act') against respondent-Amarjit Singh Matharoo, for dishonouring the cheque of ₹ 4,20,000/- issued by him in favour of the applicant. The applicant and respondent have led evidence to their satisfaction. After hearing both the sides and scanning the evidence, the learned trial Court vide its order dated 12.09.2017, dismissed the complaint.

3. Learned counsel for the applicant contends that the respondent has not denied his signatures upon the cheque in question. As soon as the respondent admitted his signatures, the applicant discharged his burden of proof that the cheque in question was issued by the respondent in discharge

of his legal liability. The respondent could not rebut the presumption in

favour of the applicant under Section 139 of the Act. The learned trial Court has wrongly dismissed the complaint on the ground that there was material alteration in the cheque in question which was never objected by the bankers of both the sides and, therefore, the alteration in the cheque said to have been accepted as genuine by the banker of the respondent.

4. I have given my anxious consideration to the submissions made by learned counsel for the applicant-appellant.

5. To rebut the case of the applicant, the respondent examined DW-1 Dr. Jassy Anand, Hand-writing and Finger Print Expert, who vide her report Ex. DW-1/1 had specifically opined that in the year portion of the cheque, digit '2' was altered to digit '3'. In his statement under Section 313 Cr.P.C., the respondent had categorically pleaded that to bring the cheque within the period of presentation, the applicant tampered the date of cheque i.e. from 01.03.2012 to 01.03.2013. The said fact is supported by the aforesaid Hand-writing and Finger Print Expert (DW-1). No counter evidence was led by the applicant to rebut the aforesaid evidence of the respondent.

6. I have carefully gone through the impugned judgment and find no illegality or perversity in the same. Accordingly, the instant application being completely devoid of any merit is dismissed.

September 06, 2017
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(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No