

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

CRM No.A-1926-MA of 2015 (O&M)

Date of decision: July 10, 2017

Parveen Mehta

...Applicant

Versus

Prince Ghai

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Veneet Sharma, Advocate
for the applicant.

INDERJIT SINGH, J.

Applicant-Parveen Mehta has filed this application under Section 378(4) Cr.P.C. seeking permission for leave to appeal against respondent Prince Ghai, challenging the impugned judgment dated 03.10.2015 passed by learned Judicial Magistrate Ist Class, Amritsar, 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 further stated that great prejudice is likely to be caused to the applicant in case the leave to file the present appeal is not granted. It is, therefore, prayed that leave to appeal be granted.

As per the record, the complainant Parveen Mehta filed a complaint against accused Prince Ghai under Section 138 of the Negotiable

loan of ₹3,75,000/- from him and in discharge of his legal debt and liability towards the complainant, the accused issued a cheque bearing No.978119 dated 20.06.2011 for a sum of ₹3,75,000/- 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 accused in the statement under Section 313 Cr.P.C. took the defence that he has been falsely implicated by the complainant in the present case. He has taken ₹25,000/- from the complainant and repaid the same. He has given blank signed cheque as security when he took loan of ₹25,000/- from the complainant and the complainant had filed so many complaints against innocent persons by filling the cheques of heavy amount. The accused examined DW-1 Koushal Arora, who produced the files pending in the Court in which complaints were being filed by the complainant Parveen Mehta against different persons. Further, accused examined DW-2 Aparna, Clerk, Judicial Record Room, who produced the summoned recorded pertaining to the cases filed by Parveen Mehta against different persons Ex.D16 to D32. The accused also tendered into evidence certified copy of judgment Ex.DA and certified copy of order Mark-'X'.

Learned JMIC, Amritsar after appreciating the evidence, dismissed the complaint and acquitted the accused-respondent vide impugned judgment dated 03.10.2015.

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 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 particulars of different complaints which are proved in defence and which are filed by present complainant against various persons, shows that total amount comes to ₹1,39,25,000/- and by adding the amount of present complaint also, it comes to ₹1,43,00,000/-, whereas copies of income tax returns of complainant and his wife show the gross income of complainant as ₹1,76,935/- in 2009-10, ₹2,13,946/- in 2010-11, ₹2,45,263/- in 2012-13, ₹2,69,545/- in 2013-14 and his wife's income is also less than ₹2 lakhs. This evidence shows that complainant and his wife are incapable to lend such a huge amount of ₹1.43 crores to various persons. No document has been placed on record to show this loan transaction. No particulars of loan have been mentioned in the complaint that on which date, in which month and year this amount has been paid and in whose presence and at which place. No record of any type has been produced. If the complainant is advancing amount of ₹1.43 crores to various persons, he might have maintained the record. The accused has raised probable defence, therefore, presumption under Section 139 of the Negotiable Instruments Act has been duly rebutted from the case of the complainant as well as defence evidence.

find that the findings have been given by correctly appreciating the evidence in right perspective. In no way, the judgment can be held as perverse or against the evidence.

In view of the above discussion, I find that the impugned judgment dated 03.10.2015 passed by learned JMIC, Amritsar, 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 10, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No