

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

**CRM No.A-2060-MA of 2015 (O&M)
Date of decision: February 17, 2017**

Hazari Lal

...Applicant

Versus

Charan Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.J.P.Sharma, Advocate
for the applicant.

INDERJIT SINGH, J.

Applicant-Hazari Lal has filed this application under Section 378(4) Cr.P.C. seeking permission for leave to appeal against respondent Charan Singh, challenging the impugned judgment dated 26.10.2015 passed by learned Judicial Magistrate Ist Class, Narnaul, 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 the judgment dated 26.10.2015 passed by learned JMIC, Narnaul, is against the law and facts proved on the file and thus caused a grave miscarriage and injustice. It is, therefore, prayed that leave to appeal be granted.

As per the record, the complainant Hazari Lal filed a complaint

against accused Charan Singh under Section 138 of the Negotiable Instruments Act. As per the complainant's case, the accused had borrowed money from him and when the complainant asked for his money, then the accused in discharge of his liability, issued a cheque bearing No.506659 dated 10.05.2011 for an amount of ₹6 lakhs, which on presentation for encashment, was returned back with the remarks 'Insufficient Funds'. Legal notice was served. When the amount was not paid, then the complaint was filed within time.

Learned JMIC, Narnaul after appreciating the evidence, dismissed the complaint and acquitted the accused-respondent.

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 record shows that in the complaint, no date, month and year has been mentioned as to when the loan was given. There are absolutely no particulars as to what type of liability, how it arose and when the amount was given to the accused and in whose presence. As per the complainant's version, while appearing as witness, this amount has been given as a loan amount but complainant has not taken any receipt or any security document from the accused. Furthermore, there is not even a single document to show this loan transaction. Also, the Court below after discussing the statement of account of the complainant held that from the period 2006 to 2011, the maximum available balance in the account of the complainant was ₹2053/-. The complainant has stated that the amount in

question was lying at his house and he has also taken some amount from

here and there. Neither name of any person was mentioned nor examined from whom such a huge amount was borrowed. Again, the complainant has stated that this loan was given in presence of his father-in-law but father-in-law was not examined in the Court to prove the loan. The complainant further stated that the amount was taken by his father from some persons to advance it to the accused but father of the complainant was also not examined.

The defence raised by the accused in this case is that accused along with complainant and his father-in-law, were agents of the company, which ran away with the money. FIR was got registered by the accused and other agents against the director of the company namely R.K.Shah. He further stated that complainant and his father-in-law snatched the cheque from him and other agents also snatched the cheque from him and thereafter, they started presenting the cheques for encashment. The defence raised by the accused looks probable, especially in view of the fact that no particulars have been mentioned as to when the loan was advanced and when the demand was raised to return the loan.

I find that the findings have been given by learned Magistrate while appreciating the evidence in right perspective. In no way, the findings can be held as perverse or against the evidence. 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 illegal or against the law.

In view of the above discussion, I find that the impugned judgment dated 26.10.2015 passed by learned JMIC, Narnaul, is correct, as

No ground is made out for grant of leave to appeal and therefore, the present application stands dismissed.

February 17, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No