

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

CRM No.A-274-MA of 2014 (O&M)
Date of decision: February 20, 2017

Anju Mahajan

...Applicant

Versus

Jeet Singh Randhawa

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Bikramjit Arora, Advocate
for the applicant.

INDERJIT SINGH, J.

CRM No.6034 of 2014

Heard.

For the reasons mentioned in the application, the same is allowed. Delay of 823 days in filing the application seeking leave to appeal, is condoned.

CRM No.A-274-MA of 2014

Applicant has filed this application under Section 378(4) Cr.P.C. seeking permission for leave to appeal against respondent Jeet Singh Randhawa, challenging the judgment dated 20.09.2011 passed by learned Judicial Magistrate Ist Class, Amritsar, whereby the accused-respondent was acquitted.

It is mainly stated in the application that there is sufficient evidence on the record to prove the guilt against the accused which has not

been taken into consideration by learned trial court while passing the

impugned judgments and thereby a grave miscarriage of justice has been done to the complainant. It is, therefore, prayed that leave to file appeal be granted to the applicant.

As per the record, the complainant Anju Mahajan filed complaint against accused Jeet Singh Randhawa under Section 138 of the Negotiable Instruments Act. As per complainant's version, accused borrowed a friendly loan from the complainant and in order to discharge the said legal debt and liability in part, the accused issued a cheque bearing No.156031 dated 21.11.2005 for ₹50,000/- in favour of the complainant, which on presentation for encashment, was returned back unpaid with the remarks 'Payment stopped by the Drawer and cutting on date'. Legal notice was issued. When the amount was not paid, then the complaint was filed well within time.

The accused took the defence that no loan was taken by him from the complainant, as such no payment is due towards the complainant. He is innocent and has been falsely implicated in the present. In defence, accused examined DW-1 Jugal Kishore.

Learned JMIC, Amritsar, after appreciating the evidence, acquitted the accused-respondent vide impugned judgment dated 20.09.2011.

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 or illegal. Nothing has been

material evidence has not been considered by the Court below.

The perusal of the record further shows that no date, month and year has been mentioned as to when the friendly loan was given to the accused. There are no particulars regarding the loan transaction. There is nothing on the record that at which place, in whose presence and by which mode the loan has been given. Furthermore, there is no document on the record to show the loan transaction. There is also nothing as to when the loan was demanded. No amount has been mentioned as to how much total amount was paid as cheque in question was issued as part payment.

Further, from the record, I find that the accused got registered DDR dated 21.11.2005 regarding theft of cheque book containing cheque Nos.156031 to 156040 and then accused approached this Court and then the FIR was registered regarding misusing of those cheques, in which the challan was presented and the complainant was charge-sheeted, though, it is argued at the time of arguments that complainant has been acquitted. When DDR dated 21.11.2005 was got registered in the police station regarding loss of the cheque, therefore, it looks improbable that the accused will give the cheque to the complainant on the same very day. There was no necessity to handover the cheque on that day because there was no document of any type to prove this loan transaction. If the accused is to get registered false DDR, he could have easily avoided the issuance of the cheque on that day. No document of any type has been produced on the record to prove the loan transaction. No security document has been taken by the complainant from the accused at the time of advancing the loan.

CW-1 Ashok Mahajan, has stated that ₹1 lakh was advanced to

the accused between 01.04.2005 to 31.03.2006. As per the record, Anju

Mahajan had filed a suit for specific performance qua agreement to sell dated 13.04.2004 and above said suit was filed on 22.03.2006. Learned Magistrate held that relations between the parties were already strained after the agreement to sell, therefore, there is no question of giving friendly loan to the accused. Furthermore, if the amount is to be given, there would have been an endorsement on the agreement to sell regarding that amount.

From the perusal of the judgment passed by the Court below, I 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 20.09.2011 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 stand dismissed.

February 20, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No