

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

1. **CRR No.4371 of 2016 (O&M)**
Date of decision : December 08, 2017

D.D. Merchants Bankers Pvt. Ltd. and others Petitioners

Versus

Pradeep Wadhwa Respondent

2. **CRR No.4372 of 2016 (O&M)**
Date of decision : December 08, 2017

D.D. Merchants Bankers Pvt. Ltd. and others Petitioners

Versus

Pradeep Wadhwa Respondent

3. **CRR No.4376 of 2016 (O&M)**
Date of decision : December 08, 2017

D.D. Merchants Bankers Pvt. Ltd. and others Petitioners

Versus

Pradeep Wadhwa Respondent

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Kunal Sachdeva, Advocate for
Mr. Mohit Chaudhary, Advocate for the petitioners.
Mr. Diwan S. Adhlakha, Advocate for the respondent.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

KULDIP SINGH J. (ORAL)

This order of mine shall dispose of three connected revision petitions i.e. CRR Nos.4371, 4372 and 4376 of 2016, arising out the same dispute between the same parties.

The common facts of the cases, which are necessary for the disposal of the present revision petitions are that complainant Pradeep

Wadhwa filed three different complainants against a company, namely, D.D.

Merchants Bankers Pvt. Ltd. through its directors Tarun Kumar and Narender Kumar. The learned Judicial Magistrate 1st Class, Faridabad, vide separate judgments of conviction of the same date i.e. 14.11.2014 acquitted the directors Tarun Kumar and Narender Kumar but convicted the company only for the commission of offence punishable under Section 138 of the Negotiable Instruments Act, 1881 and vide order(s) of sentence dated 18.11.2014, the company was directed to pay compensation of ₹2,25,000/- in each complaint. It was also ordered that in case, the compensation is not paid within one month, both the directors of company would be liable to undergo simple imprisonment for six months. Against the said judgment of conviction and order of sentence, the company went in separate appeals before the learned Addl. Sessions Judge, Faridabad. No cross-appeal against the acquittal of the directors of the company was filed by the complainant before the higher competent court. In the appeal filed by the company, learned Addl. Sessions Judge, Faridabad, vide separate judgments of the same date i.e. 17.11.2016, reversed the findings of learned Judicial Magistrate 1st Class, Faridabad and convicted both the directors of the company for the commission of offence punishable under Section 138 of the Negotiable Instruments Act, 1881, while the sentence was maintained.

I have heard learned counsel for the parties and have also carefully gone through the case file.

The law question raised before this Court is as to whether without any appeal from the complainant side, the lower appellate court could reverse the findings of acquittal of the directors and convict them?

I am of the view that the learned Addl. Sessions Judge, Faridabad gravely erred in convicting the directors without any appeal

against their acquittal. The company had filed separate appeals and the short point before the learned Addl. Sessions Judge was as to whether the sentence passed upon the company is correct or not?

It being so, the impugned judgment dated 17.11.2016 passed by learned Addl. Sessions Judge, Faridabad is hereby set aside and all the aforesaid three cases are remanded to the learned Addl. Sessions Judge, Faridabad, with a direction to re-hear the appeals and decide the same on merits, in accordance with law.

Both the parties are directed to appear before the learned Addl. Sessions Judge, Faridabad/successor court on 16.01.2018. The appellate court record and the trial court record be also returned with the file.

The lower appellate court is directed to dispose of the appeals within three months from the first date of hearing.

As such, all the aforesaid revisions stand disposed of.

(KULDIP SINGH)
JUDGE

December 08, 2017

sarita

Whether speaking / reasoned Yes

Whether Reportable: No