

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRR No. 509 of 2017 (O&M)

Date of Decision : 03.03.2017

Jagir Singh

....Petitioner

Versus

State of Haryana and another

....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Vikram Rathore, Advocate
for the petitioner.

Mr. Vikramjit Singh, Addl. AG, Haryana

Surinder Gupta, J.

Petitioner was convicted and sentenced to undergo simple imprisonment for six months under Section 138 of the Negotiable Instruments Act, 1881 and to pay compensation of ₹5,19,734/- i.e. twice the amount of cheque.

2. Case of respondent no. 2-complainant, in brief, is that respondent no. 2-complainant is a commission agent and the petitioner was selling his agricultural produce through it. Petitioner settled his account on 22.04.2010 and balance worked out to be ₹1,83,086.75 ps. He borrowed another sum of ₹28,313.25 ps. in cash from respondent no. 2-complainant. After adjusting price of crops sold by the petitioner, a sum of ₹2,59,867/- was due on 11.06.2012 for which he gave cheque bearing no. 188570 dated 02.07.2012. The cheque was presented to the bank but the same was dishonoured for want of sufficient fund. After complying with statutory provisions, complaint was filed by the respondent, which resulted in conviction and sentence to the petitioner as discussed above and was also affirmed by the Ist Appellate Court.

signatures of petitioner on the cheque in question were admitted but this cheque was given to the respondent no. 2-complainant towards security. Respondent no. 2 has no money lending licence and *bahi* entries on which the claim of respondent no. 2-complainant is based, were not duly proved as the person who made those entries was not examined.

On giving a careful thought to submission of learned counsel for the petitioner, I find no merit therein. Learned counsel for the petitioner was asked to refer to even a single suggestion given to respondent no. 2-complainant, who appeared as PW-2, that the cheque was given to him as security, but after going through the entire cross-examination, he could not refer to the same. The petitioner has produced *bahi* entries only to support his contention that amount mentioned in the cheque was due against the petitioner. It was not a case of money lending rather the petitioner was customer of respondent no. 2-complainant where he had been selling his crop and receiving money in advance. Provisions of the Punjab Registration of Money-Lender's Act, 1938 are not applicable to this case.

Learned counsel for the petitioner has also relied on judgments of this Court in cases ***Narsi Dass vs. Surender, 2015 (1) RCR (Criminal) 104*** and ***Balbir Singh vs. Raj Krishan, 2015 (2) RCR (Criminal) 812***, wherein it was observed that usually commission agents obtain blank undated cheques from farmers as security. The above observations were made in view of peculiar facts and circumstances of those cases and have no application in this case as petitioner has neither suggested to the complainant nor proved by leading evidence that cheque in question was given to respondent no. 2-complainant towards

security.

On perusal of judgments of Courts below, I find not legal or factual infirmity therein calling for any interference in this revision petition, which has no merit.

Dismissed.

March 03, 2017
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/Reasoned

Yes/No

Whether Reportable

Yes/No