

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

**CRR No.970 of 2017 (O&M)
Date of decision : August 02, 2017**

Gurchain Singh

..... Petitioner

Versus

Harjit Singh

..... Respondent

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Gursimran Singh Bawa, Advocate for the petitioner.

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)

Heard.

Present petitioner obtained a loan of ₹2,50,000/- from the complainant for domestic purposes and issued a cheque bearing No.157683 dated 01.08.2011 for a sum of ₹2,50,000/- drawn on HDFC Bank Ltd., near Doaba Automobiles, Court Road, Amritsar. The cheque on presentation was dishonoured with the remarks 'Funds Insufficient'. Learned Judicial Magistrate 1st Class, Amritsar after recording the evidence and hearing both the parties vide judgment of conviction and order of sentence dated 20.01.2016 held the petitioner guilty of the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 and sentenced him to undergo rigorous imprisonment for one year and to pay compensation of ₹3,25,000/- and in default of to further undergo rigorous imprisonment for three months. The appeal filed by the petitioner before learned Addl. Sessions Judge, Amritsar was dismissed on 11.11.2016.

Learned counsel for the petitioner has stated that earlier the

complainant appeared and filed an affidavit in examination-in-chief but later

on, he gave power of attorney to his wife and she was examined. Therefore, the petitioner was deprived of the opportunity of cross-examining the complainant.

I am of the view that the specific application for appearing through power of attorney was filed and the same was allowed. The said order was never challenged. The wife being the family member is bound to know the facts of the case and as a power of attorney holder she can appear on behalf of her husband. Nothing is coming out from the evidence on file that no cheque was issued by the petitioner.

It being so, there is no illegality or infirmity in the findings recorded by both the courts below. Thus, there are no merits in the present revision petition and the same is dismissed, accordingly.

However, the sentence awarded to the petitioner pertaining to Complaint Nos.20297, 20124 and 20352, of 2012 relating to CRR Nos.970, 974 and 1504 of 2017 respectively are directed to run concurrently.

(KULDIP SINGH)
JUDGE

August 02, 2017

sarita

Whether speaking / reasoned Yes

Whether Reportable: No