

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

CRM-A-2086-MA-2016 (O&M)

Date of decision : 31.10.2018

Shyam Sunder

..... Appellant.

Versus

Amrik Singh

..... Respondent

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Vishvnath Sharma, Advocate for applicant-appellant.

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.

This order will dispose of the application filed under Section 378(4) of the Code of Criminal Procedure for grant of leave to appeal against the judgment of acquittal dated 6.10.2016 passed by learned Judicial Magistrate, Ist Class, Yamuna Nagar at Jagadhri. It is stated that the present appellant filed a criminal complaint under Section 138 of the Negotiable Instruments Act, 1881 against respondent-accused-Amrik Singh son of Balbir Singh stating that in October 2013, he entered into an agreement with Balbir Singh father of the accused for purchase of the house. An agreement to sell dated 24.12.2013 was executed for a sale consideration of Rs. 18.00 lacs. Complainant-petitioner paid Rs. 5.00 lacs as earnest money to the accused and his father. Sale deed was to be executed on 24.11.2014. On 28.4.2014, complainant paid Rs. 4.00 lacs to the accused. On the date fixed, accused-Amrik Singh did not execute the sale deed. Later on, accused -Amrik Singh as a part of the compromise issued cheque No. 223726 dated 7.5.2015 for Rs. 12 lacs drawn on State Bank of Patiala, Guru Nanak Khalsa

High School, Jagadhri Workshop, District Yamuna Nagar in favour of

complainant. When the cheque was presented before the Bank, the same was bounced and the complainant issued legal notice dated 27.7.2015 and filed the complaint on 26.8.2015.

Trial Court has basically disbelieved the complaint on the ground that the cheque was for the earnest money paid by the complainant to the accused and his father on the basis of the agreement dated 24.12.2013. Trial Court after considering the agreement, the receipt and the cheque, found that the defence of the accused is correct and that the agreement and the receipt were prepared on blank papers. Accused in this case has taken a stand that complainant is a Financer by profession and that accused has taken a loan of Rs. 1,25,000/- in August 2010. They had taken his signatures on the blank documents and cheque No. 223726 to 223735 were obtained. Accused has returned more than Rs. 5.00 lacs to the complainant.

Trial Court has disbelieved the agreement on the ground that signatures of the accused at all three places on the agreement and receipt Ex. C-7 and C-8 are in black ink and probably these were signed on the same day. The agreement consists of two pages and the signatures of the accused also appear on the back side of the second page though there is no writing on the same. Further, it is not found that on the third page, there is a difference of spacing in the last three lines in typing and the signatures of the accused overlap the typed portion showing that it was sought to be completed within the said space. Complainant while cross-examination failed to tell the name of the typist from whom the agreement and the receipt were got typed. Trial Court also found that the body of the cheque and the signatures are in different ink showing that it was filled in later on.

This was to support the finding that the agreement; receipt and cheque were filled in later on. In this way, trial Court disbelieved the consideration for the cheque.

After going through file, I find that indeed the signatures of the accused and his father on the agreement are in black ink on the agreement as well on the receipt. There is a narrowing of space on the third page towards the end and the signatures of the accused overlap the typed portion showing that the signatures were obtained before the agreement was typed.

Trial Court has taken one of the two possible views. Parameters for interfering the judgment of acquittal are well established.

There is no ground to interfere in the judgment dated 6.10.2016 passed by learned Judicial Magistrate Ist Class, Yamuna Nagar at Jagadhri.

Accordingly, present application for leave to appeal stands dismissed.

(KULDIP SINGH)
JUDGE

31.10.2018
preeti

Whether speaking / reasoned	Yes
Whether Reportable:	No