

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

CRM No.A-346-MA of 2016 (O&M)

Date of decision: July 02, 2018

M/s Ajay Steel Rolling Mills

...Applicant

Versus

M/s A.S. Steel Corporation and another

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.J.S.Randhawa, Advocate
for the applicant.

INDERJIT SINGH, J.

Applicant-M/s Ajay Steel Rolling Mills has filed this application under Section 378(4) Cr.P.C. seeking permission for leave to appeal against respondents M/s A.S. Steel Corporation through its Proprietor Ram Murti and Ram Murti, Proprietor, challenging the impugned judgment dated 23.11.2015 passed by learned Judicial Magistrate Ist Class, Khanna, vide which the accused-respondents were acquitted.

It is mainly stated in the application that accompanying appeal is being filed which is likely to succeed on the grounds taken therein. It is further stated that guilt of the accused-respondents has been very clearly brought on record in evidence. It is, therefore, prayed that leave to appeal be granted.

As per the record, the complainant M/s Ajay Steel Rolling

Mills filed a complaint against accused M/s A.S. Steel Corporation through

its Proprietor Ram Murti and Ram Murti, Proprietor under Section 138 of the Negotiable Instruments Act. As per complainant's version, complainant firm is a partnership firm and Santosh Kumar Sharma is serving as Manager-cum-Accountant in the complainant firm. It is further stated that accused-firm has business dealing with the complainant and accused No.2 for and on behalf of accused No.1 purchased M/s Bar on credit from the complainant for ₹10,51,648/- through Bills No. 1 to 6 dated 01.04.2013 and accused No.2 on behalf of the accused No.1, with a view to discharge their outstanding legal and financial liability, issued an Account Payee cheque No.195705 dated 02.04.2013 amounting to ₹10,00,000/-, in favour of the complainant, which on presentation for encashment, was returned back dishonoured, with the remarks 'Funds Insufficient'. Legal notice was served. When the amount was not paid, then the complaint was filed within time.

The complainant examined CW-1 Santosh Kumar Sharma and after tendering the documents, closed the evidence. The accused were examined under Section 313 Cr.P.C. They denied the incriminating evidence against them and pleaded false implication.

Learned JMJC, Khanna, after appreciating the evidence, acquitted the accused-respondents vide impugned judgment dated 23.11.2015.

Aggrieved from the above-said judgment, present appeal along with application for grant of leave to appeal has been filed.

Lower Court record was requisitioned.

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 and law. At the time of arguments, nothing has been pointed out as to which material evidence has been misread and which material evidence has not been considered by the Court below. Nothing has been pointed out as to how the findings are perverse or against the law and what illegality has been committed by learned Court below.

Learned JMIC, Khanna found that the bills Ex.C3 to C6 are not signed by the accused, therefore, these bills can be prepared by the complainant at any time. As regarding cash book, learned Court below reached to the conclusion that entries therein have been prepared on same date and time and some of the entries are even made with lead pencil in the register from April 2013 to March 2014 and the version of the complainant is not trustworthy.

I have also seen the register which is with the lower Court record. From the face of it, it is clear that no reliance can be placed on this register. The entries of amount are written with lead pencil, which, at any time, can be changed. Further, it looks that this register has been prepared at one and same time as the ink and handwriting of all the entries is the same, which shows that this evidence has been created by the complainant to strengthen its case, which fact itself creates reasonable doubt in the complainant version and further disentitles the complainant from getting any relief from the Court. Learned Court below also discussed regarding Power of Attorney given and the Resolution authorizing to file the complaint, which are Ex.C1 and C2 respectively and also discussed in detail

regarding discrepancies in the name of partners etc.

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 and accused-respondent has been rightly acquitted. 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 23.11.2015 passed by learned JMIC, Khanna, 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 stands dismissed.

July 02, 2018
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No