

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

CRM No.A-1642-MA of 2015 (O&M)

Date of decision: September 18, 2018

Jagpal Singh

...Applicant

Versus

Joginder Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Harkesh Manuja, Advocate
for the applicant.

INDERJIT SINGH, J.

Applicant-Jagpal Singh has filed this application under Section 378(4) Cr.P.C. seeking permission for leave to appeal against respondent Joginder Singh, challenging the impugned judgment dated 22.07.2015 passed by learned Judicial Magistrate Ist Class, Gohana, vide which the accused-respondent was 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, therefore, prayed that leave to appeal be granted.

As per the record, complainant Jagpal Singh filed a complaint against accused Joginder Singh under Sections 138/142 of the Negotiable Instruments Act. As per complainant's version, he and accused have friendly relations with each other and due to said relation, both of them used

to lend money to each other as and when required. In the month of

December 2010, accused contacted the complainant and asked him to lend ₹3,50,000/- as he was in immediate need. Keeping in view the friendly relations, complainant gave said amount to accused with the condition that accused would repay the same within two months along with interest. On 25.02.2011, accused handed over a cheque bearing No.611023 dated 25.02.2011 of ₹3,50,000/- to the complainant, which on presentation for encashment, was returned back dishonoured with the remarks 'Alteration not allowed'. Legal notice was served. When the amount was not paid, then the complaint was filed within time.

The complainant examined himself as CW-1 and CW-2 Lal Sahab Mishra and CW-3 Ved Singh. At the close of the complainant evidence, accused was examined under Section 313 Cr.P.C. He was confronted with the evidence of the complainant. He denied all the incriminating evidence against him and pleaded his innocence. The case of the accused is that complainant has taken security cheque bearing No.611023 of ₹3,50,000/- from him when he borrowed ₹3,50,000/- from the complainant. Later on, he returned the amount to the complainant. When he asked the complainant to return the security cheque, he misused the same and filed the complaint. It is also stated that cheque was returned unpaid for the reason 'Alteration not allowed' and not for insufficient funds. In defence, accused examined DW-1 Rameshwar and DW-2 Dalel Singh.

Learned JMIC, Gohana, after appreciating the evidence, acquitted the accused-respondent vide impugned judgment dated 22.07.2015.

Aggrieved from the above-said judgment, present appeal along

Lower Court record was also 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.

The cheque in question has been placed on the lower Court record. It shows that amount of ₹3,50,000/- has been written in figure but in the words, amount is written as 'three lakh & fifty rupees only'. The perusal of the cheque itself shows that it has been tampered with and where the amount has been written in words, the cheque has been erased with some material, which is clear on the face of it. Otherwise also, in the words, the amount is written as 'three lakh & fifty rupees only', which shows that this blank signed cheque was misused and it was not given in the present condition by the accused to the complainant. No ordinary person will take such type of cheque, which from the face of it, looks tampered with, meaning thereby, the complainant has tried to rub the figure etc. and has tampered with the cheque. The cheque was also returned by the bank with the remarks 'Alteration not allowed'. As there is alteration in the cheque in question and it is tampered with, therefore, complainant is not entitled to

any relief.

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 22.07.2015 passed by learned JMIC, Gohana, 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.

September 18, 2018
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No