

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-A-604-MA of 2015

Date of Decision: 18.05.2018

Gurnam Singh

...Applicant Appellant

VERSUS

State of Punjab and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Satbir Rathore, Advocate
for the applicant-appellant.

Ms. Monika Jalota, DAG, Punjab.

Mr. H.S. Minhas, Advocate
for respondent no. 2.

SURINDER GUPTA, J.(Oral)

Respondent no. 2 was convicted and sentenced by the trial Court for offence punishable under Section 138 of Negotiable Instrument Act vide judgment dated 21.08.2014. Respondent no. 2 filed appeal before Additional Sessions Judge, Hoshiarpur, which was accepted with observation that Judicial Magistrate Ist Class, Dasuya had no jurisdiction to entertain and try the complaint under Section 138 of Negotiable Instrument Act. While recording above finding, reliance was placed on observations of Hon'ble Apex Court in case of **Dashrath Rupsingh Rathod vs. State of Maharashtra and another, 2014 (3) RCR 904 (SC).**

Learned counsel for parties have fairly conceded that findings recorded by Hon'ble Apex Court in case of ***Dashrath Rupsingh Rathod (supra)*** are not applicable to facts and circumstances of present case. Judicial Magistrate Ist Class, Dausya had the jurisdiction in the matter.

Appellate Court has not examined the appeal on merit or taken note of other

grounds of appeal as raised by respondent no. 2, as such appeal be sent back to the Appellate Court to hear arguments on merit and decide the appeal afresh.

Keeping in view above facts, I find merit in appeal and the same is accepted. The matter is remanded to Court of Additional Sessions Judge, Hoshiarpur to hear both the parties and decide the appeal on merit afresh.

Parties are directed to appear before Additional Sessions Judge, Hoshiarpur on 04.07.2018.

May 18, 2018
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned: ***Yes/No***

Whether Reportable: ***Yes/No***