

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

CRM-A-76-MA-2015(O&M)

Date of decision:-9.2.2018

Punjab Backward Classes Land Development and Finance Corporation,
Chandigarh.

...Applicant

Versus

Smt.Anterpreet Kaur

...Respondent

CORAM : HON'BLE MR. JUSTICE H.S. MADAAN

Present : Mr.J.R. Syal, Advocate
for the applicant.

Mr.R.K. Arya, Advocate
for the respondent.

H.S. MADAAN, J.

Applicant – Punjab Backward Classes Land Development and Finance Corporation , SCO 60-61, Sector 17-A, Chandigarh has filed this application under Section 378(4) Cr.P.C. seeking special leave to appeal.

Briefly stated, facts of the case are that complainant – Punjab Backward Classes Land Development and Finance Corporation had brought a criminal complaint under Section 138 of Negotiable Instruments Act, 1881 (hereinafter referred to as the Act) against accused Anterpreet Kaur on the allegations that accused had got

sanctioned a loan of Rs.15,100/- from the complainant, which was disbursed to her; that it was repayable in 20 quarterly installments, however, accused committed default in payment of installments with the result that a sum of Rs.3,40,506/- became due from her to complainant till 3.8.2006; that on that day, the accused gave a cheque bearing No.771462 drawn at Punjab National Bank, Hanuman Chowk, Gurdaspur for the due amount to the complainant giving an assurance that on presentation, the cheque would be encashed but it did not so happen and rather the cheque was dishonoured due to insufficient funds in the account of the accused; that the complainant was informed accordingly, at which the complainant served a legal notice dated 24.8.2006 upon the accused calling upon her to make the payment within fifteen days of receipt of notice; however, the accused did not make payment within the stipulated period, as such the complainant had filed a complaint before Judicial Magistrate Ist Class, Gurdaspur.

After recording of the preliminary evidence, the accused was summoned, who appeared and was admitted to bail. Notice of accusation under Section 138 of the Act was served upon her, to which, she pleaded not guilty and claimed trial.

During the course of evidence of the complainant, Sh.Sukhdev Singh, Enforcement Officer appeared as CW1 and supported the case of the complainant proving various documents i.e. deposit slip as Ex.C1, Cheque Ex.C2, memo Ex.C3, copy of legal notice as Ex.C4 and postal receipt as Ex.C5.

With that the evidence of complainant stood closed.

Statement of accused was recorded under Section 313

Cr.P.C., in which the accused while denying the incriminating circumstances appearing against her submitted that she was innocent and had been falsely involved in the case. However, she admitted that she had taken a loan from the complainant but the loan was secured as the mortgage deed was got executed by the bank; that the cheque had been given as a security; that the complainant has a right to sell the mortgaged shops.

Accused did not lead evidence in her defence.

After hearing arguments, the learned trial Magistrate dismissed the complaint under Section 138 of the Act, resultantly acquitting the accused mainly for the reason that the loan had been taken by accused in the year 1999 and, therefore, any cheque issued by the accused in the year 2006 does not make her liable for offence under Section 138 of the Act since in 2006, the debt was not legally enforceable and was time barred and there was nothing to show that accused had acknowledged her liability to repay the loan in time. It was further observed that even if, it is taken that debt is recoverable, the complainant has a right to dispose of the shop, mortgaged by the accused in its favour since witness appearing on behalf of the complainant had clearly admitted in his cross-examination that accused had mortgaged her three shops with the complainant when she had taken the loan.

The complainant felt aggrieved by the dismissal of the complaint and has knocked at the door of this Court by moving an application under Section 378 (4) Cr.P.C. for grant of special leave to appeal against the judgment of acquittal.

I have heard learned counsel for the parties and I find that no ground is there to grant special leave to appeal. I do not find any illegality or infirmity in the judgment passed by the learned trial Court. Rather it is based upon proper appraisal and appreciation of evidence and correct interpretation of law, besides being well-reasoned.

Therefore, no ground is made out to grant special leave to appeal in this case. The application is, therefore dismissed accordingly.

9.2.2018
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No