

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

CRM No.A-997-MA of 2015 (O&M)

Date of decision: September 12, 2018

M/s Devdhar Timber

...Applicant

Versus

M/s Raghbir Singh and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Subhash Godara, Advocate for
Mr.S.S.Dinarpur, Advocate
for the applicant.

None for the respondent.

INDERJIT SINGH, J.

Applicant-M/s Devdhar Timber has filed this application under Section 378(4) Cr.P.C. seeking permission for leave to appeal against respondents M/s Raghbir Singh and S.Gurinder Singh, challenging the impugned judgment dated 16.03.2015 passed by learned Judicial Magistrate Ist Class, Yamuna Nagar at Jagadhri, 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, therefore, prayed that leave to appeal be granted.

As per the record, complainant M/s Devdhar Timber filed a

complaint against accused M/s Raghbir Timber through its partner

S.Gurinder Singh and S.Gurdinder Singh under Section 138 of the Negotiable Instruments Act. As per complainant's version, accused No.1 partnership firm through accused No.2 being partner of accused No.1, in discharge of his existing liability towards the complainant, had issued a cheque bearing No.411917 dated 26.04.2009 in the sum of ₹5,00,000/-, which on presentation for encashment, was returned back dishonoured with the remarks 'Exceeds Arrangement'. Legal notice was served. When the amount was not paid, then the complaint was filed within time.

Learned JMIC, Yamuna Nagar at Jagadhri, after appreciating the evidence, acquitted the accused-respondents vide impugned judgment dated 16.03.2015.

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

Notice of motion was issued but none appeared on behalf of respondent despite service.

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.

Further, from the evidence, it is clear that the cheque was dated 26.04.2009, whereas the bills, proved by the complainant establishing the liability, are after the date of issuance of the cheque. The accused has produced cogent evidence on record. From the record, it is clear that cheque was not issued for the liability which had arisen after the issuance of the cheque. The complainant has not disclosed that on what basis the legal liability existed for which the cheque was issued by the accused in his favour. Learned trial Court has specifically mentioned that cheque in question is dated 26.04.2009 and all the bills from Ex.C3/A to Ex.C3/J pertain to period after 26.04.2009.

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-respondents have 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 16.03.2015 passed by learned JMIC, Yamuna Nagar at Jagadhri, 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 12, 2018
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No