IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Criminal Revision No.1143 of 2018 (O&M)
Date of Decision: March 26th, 2018

Sunder Lal

...Petitioner

Versus

Geeta Malik

...Respondent

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Nipun Vashist, Advocate
for the petitioner.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioner has approached this Court challenging the judgment dated 08.12.2015 and order dated 09.12.2015 passed by Additional Chief Judicial Magistrate, Rewari, whereby the petitioner was convicted and sentenced to undergo rigorous imprisonment for a period of six months and to pay compensation amount of ₹4,00,000/- along with interest at the rate of 8% per annum from the date of issuance of the cheque. It was further ordered that the amount should be paid within a period of 60 days from the date of the judgment, failing which the compensation amount will be recoverable under the provision of Section 421 Cr.P.C. and the judgment dated 17.01.2018 passed by the Sessions Judge, Rewari, whereby the appeal preferred by the petitioner challenging the judgment of conviction dated 08.12.2015 and the order of sentence dated 09.12.2015 passed by the Additional Chief Judicial Magistrate, Rewari, has been dismissed.

It is the contention of learned counsel for the petitioner that the complainant has not specified the amount which has been paid to the petitioner and the dates on which such an amount has been paid. It has further been stated that neither has it been mentioned as to how the money

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was available with the complainant to forward it to the petitioner. Referring to the judgment passed by the Additional Chief Judicial Magistrate, Rewari, it is contended that the petitioner had put specific questions with regard to the date on which the amount was given to the petitioner and the sources from where she had got the money but she could not specify the amount which she had received either from her brother or the mother nor could she mention the dates on which the said amount was received which is alleged to have been received for forwarding it to the petitioner as loan.

On a specific question put by this Court, learned counsel for the petitioner has categorically admitted the factum of signatures of the petitioner on the cheque in question which was of ₹4,00,000/-.

Reliance has been placed upon the judgment of this Court in *Ravinder Pal Versus Krishan Lal 2015(8) R.C.R. (Criminal) 76*, where the coordinate Bench of this Court had, on the basis of the non-mentioning of the date, month and place of giving the cash and no cogent evidence from which it could be inferred that the petitioner was advanced loan, dismissed the application filed by the complainant under Section 378 (4) read with Section 482 of the Code of Criminal Procedure for grant of special leave to appeal.

Reliance has also been placed upon the judgment of this Court in *Sukhdev Singh Versus Baldev Singh 2016(2) R.C.R. (Criminal) 314*, where the same preposition of law has been laid down.

Reliance has further been placed upon the judgment of Supreme Court in *Vijay Versus Laxman and another 2013(3) SCC 86* in support of the contention of the petitioner which has been ultimately relied upon by this Court in *Ravinder Pal's* case as well as in *Sukhdev Singh's* case.

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Having considered the submissions made by learned counsel for the petitioner and keeping in view the judgments, which have been referred to above, in the considered view of this Court, the same would not be applicable to the present case as it has specifically been stated by the complainant that the money was given to the petitioner at her residence and he was frequent visitor at the house when the said amount was paid to him. It has also been specified and given that the amount was collected by her and the sources from where it was so collected i.e. from the mother and the brother of the complainant. The account has also been given and it is worth mentioning here that there is no cross-examination of the complainant on this specific aspect with regard to the details and the dates therein. No such person is expected to remember each and every date on which amounts are handed over when it has been stated that off and on he had been taking money from the complainant as per her specific statement. It may be added here that the petitioner had not denied his signatures on the cheque. The presumption, therefore, with regard to the liability, cannot be stated to be discharged as far as the provisions of the Negotiable Instruments Act are concerned.

Finding no merit in the present petition, the same, therefore, stands dismissed.

In the light of the dismissal of the petition, the application for suspension of sentence i.e. CRM No.11096 of 2018, has been rendered infructuous.

Disposed of as such.

March 26th, 2018 **(AUGUSTINE GEORGE MASIH)**
Puneet **JUDGE**

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Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No