

106 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-3943-2018 (O&M)
Date of decision-05.12.2018

Karam Singh

....Petitioner

Vs.

State of Punjab

...Respondent

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. K.K.Saini, Advocate for the applicant-petitioner.

MANOJ BAJAJ, J.

The petitioner is aggrieved against the judgment dated 26.09.2018 passed by Additional Sessions Judge, Rupnagar whereby the appeal against the judgment of conviction dated 25.01.2017 and order of sentence dated 27.01.2017 passed by the trial Court stands dismissed. The sentence imposed by the trial Court was also maintained.

The petitioner was sent to face prosecution in FIR No. 72 dated 11.07.2009 under Section 420 and 120 of Indian Penal Code registered at Police Station Kurali. Broadly the allegations made in the FIR were that the petitioner is engaged in the business of sending persons abroad and the similar kind of inducement was given to the complainant to facilitating him to send abroad. On this pretext, a sum of ₹6,50,000/- was given by the complainant to the accused-Karam Singh. The complainant was taken here and there by accused for the said purpose. However, finally on 17.02.2009, the complainant asked the accused to return the amount paid by him.

However, cheque issued by the petitioner in favour of the complainant was not honoured as the account stood closed. After registration of the FIR, the investigation was carried and final report was submitted. The prosecution in order to discharge the onus examined in all 15 witnesses including the complainant i.e. PW-1, namely, Darshan Singh. The evidence of the complainant is further supported by PW-4, namely, Sandeep Pal Singh, Clerk who had proved that the cheque in question given by Karam Singh in favour of the complainant belonged to his account which stood closed. Besides this, the complainant had also sought support from PW-8 and PW-9 who were also cheated by the petitioner-Karam Singh. Examining the evidence on record the trial Court held that the petitioner is guilty of the offence punishable under Section 420 IPC. Aggrieved against this judgment, the petitioner preferred an appeal, which has been dismissed by way of the impugned judgment dated 26.09.2018.

Learned counsel for the petitioner argued that once the cheque for the amount in question was given by the accused in favour of the complainant, the proceedings could have been maintained under Section 138 of Negotiable Instruments Act, 1881 and no offence under Section 420 is made out.

This argument is without any merit as it is evident from the prosecution evidence that the intention from the very beginning was deceitful as at his inducement the amount was given, thereby causing wrongful loss to the complainant. Besides, it is the case of the accused himself that the account from which the cheque was given, already stood

closed. Therefore, it can be safely inferred that the ingredients to constitute the offence punishable under Section 415 IPC are not only present but are proved beyond the shadow of the reasonable doubt. The Courts have effectively dealt with the arguments and the conclusion drawn is based on correct and proper appreciation of the prosecution evidence.

This Court does not find any ground to interfere in revisional jurisdiction as the judgment by appellate Court does not suffer from any illegality or impropriety.

Consequently, present petition is dismissed.

(MANOJ BAJAJ)
JUDGE

05.12.2018
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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No