

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-A-391-2019(O&M)
Date of decision: 06.11.2019

Jaswinder Singh

.....Appellant

Versus

Kirpal Singh

.....Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr.Aalok Jagga, Advocate for the appellant

ANIL KSHETARPAL, J. (ORAL)

CRM-4375-2019

After hearing learned counsel for the applicant and going through the contents of the application, delay of 159 days in filing the present appeal is hereby condoned. CRM stands allowed.

Main case

Special leave to appeal has been sought under Section 378 Cr.P.C against judgment of acquittal passed by the learned Magistrate while dismissing complaint under Section 138 of Negotiable Instruments Act, 1881.

Learned Magistrate has recorded the following four findings to dismiss the complaint:-

- i) complainant has not produced account books although he is actively in the business. Admittedly he has also not

depicted the amount allegedly advanced as loan in his income tax returns.

- ii) Appellant-complainant has failed to prove financial capacity to extend a loan of Rs. 4 lacs
- iii) Except the cheque in question, no document has been produced to prove the alleged lending of money.
- iv) Cousin of the appellant-complainant had already advanced a sum of Rs.12.50 lacs to the accused for which a cheque was allegedly issued by the accused stood dishonoured.

This Court has heard learned counsel for the appellant at length and with his able assistance has gone through the judgment passed by the Magistrate as well as cross-examination of the appellant/complainant-Jaswinder Singh.

From the reading of the aforesaid cross-examination it is apparent that the conclusion drawn by the learned Magistrate is a possible and plausible view on appreciation of evidence.

Learned counsel for the appellant has relied upon judgment passed in the case of '**Rohitbhai Jivanlal Patel vs. State of Gujarat and another**' reported as 2019 (1) Crimes 291.

The aforesaid judgment alongwith other judgments passed by the Hon'ble Supreme Court have already been considered by this Bench in CRM-A-622-2019 titled as '**Harish Ram vs. Mukesh Kumar**' decided on 27.8.2019. While referring to three Judges Bench judgment of the Hon'ble Supreme Court in the case of '**Rangappa vs. Sri Mohan**' reported as

point out discrepancies as well as contradictions in the evidence led by the prosecution and on the basis thereof contend that the statutory presumption stands rebutted.

Hence, no ground to grant leave to appeal is made out.

Dismissed.

06.11. 2019

rekha

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned

Yes / No

Whether Reportable

Yes / No