

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

CRM-A-431-MA-2013 (O&M)

Date of decision : 08.04.2019

Labh Singh

...Applicant

Versus

Salim Ansari @ Salman

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL.

Present: None for the applicant.

Mr. V.K. Gupta, Advocate for the respondent.

ANIL KSHETARPAL, J.

CRM No.33116 of 2013

For the reasons stated in the application, which is duly supported by an affidavit, delay of 136 days in filing the appeal is condoned.

Application is allowed.

Main case

Application under Section 378(4) of the Criminal Procedure Code has been filed for grant of leave to appeal against the judgment dated 11.10.2012 passed by the Judicial Magistrate, Ist Class, Yamuna Nagar.

Petitioner had filed a complaint under Section 138 of the Negotiable Instruments Act alleging that the cheque dated 15.12.2008 for a sum of ₹4,00,000/- drawn on Corporation Bank, Jagadhri Road, Yamuna Nagar was returned dishonoured with the remarks “funds insufficient”.

Learned Judicial Magistrate, Ist Class, on appreciation of

evidence has found following reasons to dismiss the complaint:-

1. Plaintiff is not proved to be having financial capacity to pay the amount of ₹4,00,000/- in cash.
2. Bank official who has been examined as CW2 has stated that the complainant had ₹86/- to his credit in January, 2009, ₹288/- on February 2009, ₹2020/- on 14.07.2011. Thus, the complainant never had credit more than ₹5,000/-.
3. Still further, the Court has found that in cross-examination, statement given by the complainant is not reliable. The Court has concluded that the payment of the amount as alleged by the complainant is highly improbable.
4. Further, it has been found that the complainant had suppressed material facts from the Court.

This Court has carefully read the application for grant of leave to appeal. In the application for grant of leave, it has been stated as under:-

“3. That there are sufficient grounds for grant of Special Leave to Appeal in the present case.

4. That by the acquittal of the accused/respondent, miscarriage of justice has been done.”

In view of the aforesaid, application for grant of leave to appeal is dismissed.

08.04.2019

Pawan

**(ANIL KSHETARPAL)
JUDGE**

**Whether speaking/reasoned:-
Whether reportable:-**

**Yes/No
Yes/No**