IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-A-681-MA-2013 (O & M)
Date of Decision:-09.01.2019

Gurvir Singh

...Appellant

Versus

Manjinder Singh

...Respondent

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present:- Mr. Manish Kumar Singla, Advocate for the appellant.

Mr. Navkiran Singh, Advocate for the respondent.

MANOJ BAJAJ J.

Complainant Gurvir Singh has preferred this appeal to challenge the judgment dated 18.8.2012 passed in a complaint case No.240 of 01.12.2010, whereby the Chief Judicial Magistrate, Sangrur acquitted the accused Manjinder Singh (respondent herein) in complaint case under Section 138 of Negotiable Instruments Act, 1881.

The complainant had set up a case that the accused had borrowed a sum of Rs.27,00,000/- from him for his urgent business needs with a promise to return the same within a short period. The entire amount was paid in cash by the complainant to the accused. It is pleaded that through cheque bearing No.159974 dated 08.6.2010 for a sum of

Rs.27,00,000/- drawn at ICICI Bank, Branch Sangrur was issued by the accused in favour of complainant, however, the same was dishonoured on presentation with the remarks 'Account Closed'.

After summoning of the accused, the trial proceeded and the evidence of the prosecution was recorded. The trial Court after examining the evidence of the prosecution as well as defence, proceeded to acquit the accused.

Learned counsel for the petitioner has argued that the complainant had successfully proved the charges against the accused as the signature on the cheque is of accused. It is further pointed out that the judgment delivered by the trial Court is against the evidence on record and therefore warrants interference by this Court.

I have examined the judgment passed by the trial Court and find that the same is based on correct appreciation of evidence. In fact it is the statement of the complainant, who testified before the Court as CW1, which has rebutted the presumption regarding the cheque that it was issued towards discharge of legal liability. During cross-examination the complainant had admitted that he is not aware about the business of the accused for which the alleged loan was advanced. It needs to be noticed here that the complainant further testified before the Court that the amount in question was obtained from friends and relatives in order to give it to the accused for his business. No source of income has been proved by the complainant.

Whereas on the other hand DW1 S.S. Tiwari, Tax Assistant from Income Tax Office, Sangrur has proved the income tax return of the petitioner (complainant), which do not contain the amount advanced as loan to the accused. The trial Court has carefully examined the evidence on record and proceeded to hold that the cheque in question was not issued towards any debt or legal liability. The said finding is based on correct appraisal of the evidence and a possible view had been adopted.

In view of the above, no case for interference in the judgment dated 18.8.2012 passed by the trial Court is made out.

The appeal is dismissed.

January 09, 2019 **(MANOJ BAJAJ)**
Vijay Asija **JUDGE**

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