

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

CRM No.A-1423-MA of 2017 (O&M)

Date of decision: March 28, 2019

Raman Kumar

...Applicant

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Karanvir Singh Sandhu, Advocate for
Mr.K.S.Dhillon, Advocate
for the applicant.

INDERJIT SINGH, J.

Applicant-Raman Kumar has filed this application under Section 378(4) Cr.P.C. seeking permission for leave to appeal against respondents State of Punjaba and Jagmeet Singh , challenging the impugned judgment dated 18.04.2017 passed by learned Judicial Magistrate Ist Class, Jalandhar, vide which the accused-respondent was acquitted.

It is mainly stated in the application that accompanying appeal is being filed which is likely to succeed on the grounds taken therein. It is, therefore, prayed that leave to appeal be granted.

As per the record, complainant Raman Kumar filed a complaint against accused Geeta and Jagmeet Singh under Section 138 of the Negotiable Instruments Act. As per complainant's version, accused No.1 entered into an agreement to sell with the complainant with regard to plot

No.22 measuring 10 marlas, for total sale consideration of ₹27 lakhs. Accused paid ₹19 lakhs to the complainant but did not pay ₹8 lakhs. In order to discharge part payment of total sale consideration, accused issued three cheques bearing No.129485, 129486 and 129847 dated 15.04.2014 for ₹1 lakh, ₹2 lakh and ₹2 lakh respectively, which on presentation for encashment, were returned back dishonoured with the remarks "Payment stopped by drawer". Legal notice was served and reply was sent by the accused. When the amount was not paid, then the complaint was filed within time.

On the basis of preliminary evidence, accused No.2 Jagmeet Singh has been summoned.

The complainant examined himself as CW-1 and CW-2 Manik. At the close of complainant evidence, accused was examined under Section 313 Cr.P.C. He was confronted with the evidence of the complainant and he denied all the incriminating evidence against him and pleaded his innocence and false implication. He further pleaded that he has already paid ₹28 lakhs to the complainant and complainant had promised him to return the cheques in question and for that purpose, complainant issued cheque bearing No.418184 dated 14.11.2014 for ₹6 lakhs. Nothing is due against him regarding cheques in question and complainant has misused his cheques.

Learned JMIC, Jalandhar, after appreciating the evidence, acquitted the accused-respondent vide impugned judgment dated 18.04.2017.

Aggrieved from the above-said judgment, present appeal along with application for grant of leave to appeal has been filed.

through the record.

From the perusal of the record, I find that complainant while appearing as CW-1, during his cross-examination stated that plot in question has not been transferred by him in the name of Geeta, wife of accused, till today. If the plot has not been transferred in the name of wife of the present accused-respondent, with whom the complainant entered into agreement to sell, it means that the plot is with the complainant and he, as per his version, already have ₹19 lakhs, which was paid to him as earnest money, which means that there is no liability for the accused. The case would have been different if the complainant had transferred the property and ₹8 lakhs would have been the remaining sale consideration but in the present case, complainant has not transferred the property, rather, has received ₹19 lakhs and further, filed this complaint against accused. As these cheques were not for discharging any liability towards the complainant, therefore, one of the necessary ingredient is missing.

The perusal of the findings given by learned JMJC, Jalandhar shows that these have been given as per evidence and law. In no way, the findings can be held as perverse or against the evidence and law. At the time of arguments, nothing has been pointed out as to which material evidence has been misread and which material evidence has not been considered by the trial Court. Nothing has been pointed out as to how the findings are perverse or against the law and what illegality has been committed by learned trial Court. The findings have been given by correctly appreciating the evidence in right perspective and accused-respondent has been rightly acquitted.

judgment dated 18.04.2017 passed by learned JMIC, Jalandhar, is correct, as per law and evidence and does not require any interference from this Court. No ground is made out for grant of leave to appeal and therefore, the present application stands dismissed.

March 28, 2019
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No