

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-A-2559-MA-2018
Date of Decision: 13.12.2019

Har minder Kaur (now deceased through LR Mansimran Singh)

.....Applicant

Versus

Hardeep Singh

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Deepak Goyal, Advocate, for the applicant.

Harnaresh Singh Gill, J.

Special leave to appeal has been sought against the judgment of acquittal passed by the learned Judicial Magistrate Ist Class, Rajpura, thereby dismissing the complaint under Sections 138 of the Negotiable Instruments Act, 1881 (for brevity, 'N.I.Act').

Proceedings were initiated on dishonour of cheque bearing 015519 dated 30.05.2012 drawn on HDFC Bank Ltd., Chaunda Road, Amargarh.

The learned Judicial Magistrate Ist Class, Gurugram, has recorded the following reasons to dismiss the complaint:-

- i) The agreement dated 29.5.2012 (Ex. D.1) is a computer generated document. The handwriting and fingerprints expert report (Ex. C.7) does not reflect that Navdeep Gupta is technically expert in computer generated

document. He is expert in handwriting and fingerprints only. Therefore, this is another reason that report Ex.C.7 cannot be considered into evidence in the present case. In the absence of examination of the handwriting and fingerprints expert, the report Ex. C.7 cannot be read into evidence. It is a settled law that mere exhibition of document does not amount to proof of a document.

ii) As per the version of the complainant mentioned in the judgment dated 18.4.2018 (Ex.C.13), an amount of Rs.45 lacs was handed over in cash and the cheque (Ex.C.1) was issued regarding the remaining amount i.e. Rs.55 lacs. However, it is not disputed that when the agreement dated 29.5.2012 (Ex.D.1) was executed, the payment was made.

iii) As far as the claim of the complainant with regard to addition of last line in para 5 of the agreement (Ex.D.1) is concerned, the misalignment may occur due to any mechanical problem in the printer or for any other mechanical reason. The scale tilts in favour of the accused because the direct evidence i.e. DW1 has been examined by him who has fully corroborated the version of the accused.

iv) The amount of Rs.1 crore is not a meager amount. It is undisputed fact that agreement dated 29.5.2012 (Ex.D1) was executed. It does not appeal to the mind that the complainant would not have kept any copy of the said agreement. The complainant could produce such copy of the agreement dated 29.5.2012 (Ex.D.1) in which the last line of para 5 is missing.

The learned Magistrate has taken a reasonable and probable view on appreciation of evidence. Learned counsel for the applicant, although, made sincere attempt, yet failed to draw the attention of this Court to any substantive error or perversity. Still further, the reasons which have been extracted above, appear to be probable and plausible.

From the above, I do not find any ground to grant special leave to appeal. Therefore, finding no merit in the present application, the same is dismissed. Special Leave to appeal is declined.

(HARNARESH SINGH GILL)
JUDGE

13.12.2019
ds