

CRM-A-112-MA-2014

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

CRM-A-112-MA-2014
Date of Decision: 15.11.2019

Balwinder Singh

... Applicant

Versus

Mini Bedi and another

... Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Nimanyu Gautam, Advocate,
for the applicant.

HARNARESH SINGH GILL, J.

This is an application under Section 378(4) of the Code of Criminal Procedure for grant of special leave to appeal against the judgment dated 22.11.2013 passed by the learned Judicial Magistrate Ist Class, Ludhiana, in a complaint filed under Section 138 of the Negotiable Instruments Act, 1881 (for brevity, 'N.I.Act'), vide which respondents, Mini Bedi and Madhuri Kumari Duggal, have been acquitted of the charge framed against them.

Applicant(complainant), Balwinder Singh filed a complaint under Section 138 of the N.I.Act against Navdeep Singh Bedi and the respondents alleging that Navdeep Singh Bedi and his wife (respondent No.1) were property dealers and in the month of February 2006, they had represented the applicant to sell a plot measuring 145 sq. yards allegedly owned by Madhuri Kumari Duggal (respondent No.2), who is real sister of

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respondent No.1. An agreement dated 06.02.2006 was executed by respondent No.2, who had received a sale consideration of Rs.6,88,750/-. An amount of Rs.7,000/, being commission, was also paid to respondent No.1 and her husband, Navdeep Singh Bedi, in the presence of Gurmukh Singh son of Mal Singh. Later, the applicant came to know that the said plot had been sold to somebody else by respondent No.2.

It is further alleged that on 26.12.2006, an agreement/compromise was executed either to return the money or plot to the applicant. The respondents alongwith Navdeep Singh Bedi(accused) returned Rs.3,80,000/- in cash and for the remaining amount, a Maruti Alto car worth Rs.2 lakh was given on 31.01.2007. The respondents alongwith Navdeep Singh Bedi gave a cheque dated 25.12.2017 for Rs.1,20,000/-. When the said cheque was presented, the same was returned un-encashed with the remarks 'Account Closed'. Thereafter, a legal notice was given to the respondents and Mandeep Singh Bedi, requesting them to make the payment, but to no effect. Hence, the complaint was filed.

The trial Court while considering the complaint found following points emerging for determination:

- “i) Whether the accused No.2 and 3 are vicariously liable for the act of accused No.1?*
- ii) Whether the accused issued cheque in question in favour of the complainant in order to discharge legally enforceable liability?*
- iii) Whether the cheque in question misused by the complainant?”*

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The trial Court after considering the evidence on record acquitted the respondents by giving them a benefit of doubt, whereas it convicted accused-Navdeep Singh Bedi under Section 138 of the N.I.Act and sentenced him to undergo simple imprisonment for a period of one year and to pay a fine of Rs.2,000/-.

Aggrieved of the judgment of acquittal of the respondents, the applicant has preferred the present application seeking special leave to appeal.

I have heard learned counsel for the applicant and with his able assistance, have gone through the judgment of the trial Court.

Learned counsel for the applicant has argued that the respondents had been wrongly acquitted by giving them benefit of doubt. It is further argued that respondent No.1 is the wife of accused-Navdeep Singh Bedi and real sister of respondent No.2. Therefore, it was the joint liability of the respondents alongwith accused, Navdeep Singh Bedi, to comply with the legal enforceable debt, as Section 139 of the N.I.Act merely raises a presumption in regard to the second aspect of the matter.

After hearing the learned counsel for the applicant and going through the record, I do not find any ground to interfere with the judgment of acquittal qua the respondents. I do not find that any legal liability can be fastened upon the respondents merely because they are the close relatives of accused-Navdeep Singh Bedi. Moreover, the respondents were not the signatories to the cheque in question. The same had been signed by accused, Navdeep Singh Bedi, who was accused No.1 before the trial Court and has been convicted.

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The present application seeking special leave to appeal has been preferred by the applicant with the allegations that there was a transaction regarding the sale of property and the dispute had arisen between the applicant and the accused in the complaint, which had been settled as per document Ex.C8 and in discharge of the legal liability of the said transaction, the accused had issued the cheque in question. However, it is Navdeep Singh Bedi (accused No.1 in the complaint), being the proprietor of Amar Industries, who had issued the cheque in dispute in his individual and personal capacity from his savings bank account.

Even if the said contention is considered, then also no liability can be fastened on the respondents as none of them had undertaken to pay the amount in question nor the cheque was issued by them nor they were the signatories to the cheque.

In my view, the respondents had no connection with the issuance of cheque in dispute to the applicant at any stage.

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

15.11.2019

parveen kumar

(HARNARESH SINGH GILL)
JUDGE

Note: Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No