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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-A-314-MA-2018 (O&M)
Date of decision-08.07.2019

Sudhir Kumar Arora

....Applicant

Vs.

R.K.Pal

...Respondent

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr.Puneet Gupta, Advocate for the applicant.

MANOJ BAJAJ, J.

Sudhir Kumar Arora-applicant is aggrieved against the order dated 17.11.2017 passed by Judicial Magistrate First Class, Chandigarh whereby the Court has proceeded to acquit the accused in a complaint brought by complainant under Section 138 of Negotiable Instruments Act, 1881.

Learned counsel for the applicant contends that the trial Court has proceeded to acquit the accused by treating the payment of Rs.9 lacs as return of the loan of Rs.6 lacs which was advanced by complainant/applicant. He further contends that it is a case where on two occasions loan was advanced to the accused i.e.firstly for a sum of Rs.6 lacs in the year 2011-12 and secondly again for a sum of Rs.12 lacs in the year 2012. He submits that previously a sum of Rs.5 lacs was paid in a period spreading in between 2011-13 and a sum of Rs.7 lacs still remained. He contends that the payment of Rs.7 lacs relates to the previous loan whereas

the second loan stands intact. According to him, the impugned judgment warrants interference by this Court.

After hearing learned counsel, this Court finds that it is nowhere pleaded by the complainant in his complaint that the loan was advanced on two occasions. It is fairly submitted by learned counsel for the applicant that complaint contained averments only in respect of loan of Rs.6 lacs. It is also not disputed by him that Neha Prasha, Branch Manager- DW-3, who had brought the details of the Bank account proved the payment of Rs.7 lacs by the accused in favour of the complainant, which was made through cheques only. Besides, the arguments regarding two loans have been addressed before this Court and were not raised before the trial Court. A perusal of the impugned judgment reveals that a possible view was adopted by the trial Court which is based on correct appreciation of the evidence and material on record.

In view of the above, this Court does not find any reason to interfere with the judgment of acquittal dated 17.11.2017 passed by the trial Court.

Resultantly, application for grant of leave to appeal is declined.

(MANOJ BAJAJ)
JUDGE

08.07.2019

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