

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

**CRM-A-912-MA-2018 (O&M)
Date of decision : 21.01.2019**

Niki Goyal

.....Applicant.

Versus

Satpal

..... Respondent.

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Abhishek Goyal, Advocate for applicant.

1. *Whether the Reporters of local newspaper may be allowed to see the judgment ?*
2. *To be referred to the Reporter or not.*
3. *Whether the judgment should be reported in the digest ?*

KULDIP SINGH J. (ORAL)

Heard.

Present application under Section 378(4) of the Code of Criminal Procedure has been filed for grant of leave to appeal against the impugned judgment dated 5.3.2018 passed by Judicial Magistrate Ist Class, Patiala vide which complaint filed under Section 138 read with Section 420 of the Indian Penal Code has been dismissed and accused-respondent has been acquitted of the notice of accusation.

Undoubtedly, the applicant-complainant namely Niki Goyal is the daughter-in-law of the accused-respondent namely Satpal. As per the complainant, her father-in-law took a loan of Rs. 8.5 lacs from her in the month of November 2013 when her husband-Pawan Goel was alive. In August 2014, in order to discharge his liability, accused-respondent issued two post dated cheques bearing No. 305451 dated 21.1.2005 and 305452 dated 15.2.2015 amounting to Rs. 4,25,000/- each. On presentation of the

cheques the same were dishonoured by the bank with the remarks '*payment stopped by drawer*'.

Admittedly, in this case, both the parties were close relations when the loan was allegedly taken and Pawan Goel-husband of the applicant-complainant was alive at that time. Statement of the accused-respondent was recorded under Section 313 of the Code of Criminal Procedure to the effect that there was a family settlement between his family and family of the complainant in the presence of Jagtu Ram, Brij Lal, Jai Bhagwan, Jain Narayan, Durga Dass and Roshan Lal for the purchase of house at Kaithal for the complainant and her minor children, if the complainant is ready to reside at Kaithal after the death of his son-Pawan Kumar Goel, being his daughter-in law. Complainant-applicant performed second marriage and is receiving widow pension. Therefore, respondent-accused stopped the payment of the aforesaid cheques.

The judgment of the trial Court shows that complainant-applicant was apparently not possessing any funds in the month of November 2013 when she is alleged to have advanced the loan. She opened the account only in 2015 when son of the accused-respondent was dead. There is no reason as to why the accused will not take loan from his son and why he will approach the daughter-in-law, who was merely a house wife and not having any independent income.

Apparently, aforesaid cheques were presented after the death of son of the accused-respondent, therefore, trial Court rightly believed that both the cheques were on account of family settlement on account of death of Pawan Kumar Goel-son of the accused-respondent.

Since the applicant-complainant re-married, accused-respondent stopped the payment of both the aforesaid cheques. Therefore, I do not find any infirmity in the impugned order dated 5.3.2018 passed by Judicial Magistrate Ist Class, Patiala.

Dismissed.

(KULDIP SINGH)
JUDGE

21.01.2019
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Whether speaking / reasoned	Yes
Whether Reportable:	No