

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

CRM-A-865-2019 (O&M)
Date of decision : 10.07.2019

Som Dutt Sharma

...Applicant/appellant

Versus

Kuldeep Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Peeush Gagneja, Advocate for the applicant/appellant.

ANIL KSHETARPAL, J. (ORAL)

Present leave to appeal has been filed against the judgment of acquittal in a case under Section 138 of the Negotiable Instruments Act, 1881.

Learned trial Court has positively recorded following findings:-

“In the present case complainant side had also proved on file bank account statement Ex. C5 of complainant showing withdrawal of money i.e. Rs. 3 Lacs on 26.10.2015 and Rs. 1,90,000/- on 03.11.2015 but not shown to be given to complainant. Further it is deposed by the complainant that at his home on two occasions money was given before none of the family persons though they were present and moreover no receipt or agreement was drawn between the parties. Further complainant do not know whether loan given to the accused was shown in his ITR or not. Though complainant do file ITR from the year 1998. Further as per deposition of complainant a criminal case, document of which are put to the complainant as Ex. D1 was filed by the accused and as per contents of Ex. D1 a criminal complaint was moved on

30.03.2016, wherein final report was filed on 27.04.2016 by the investigation officer and as per contents of Point A to B on second page of Ex. D1, there are averments with regard to the cheque numbers which do include cheque number of cheque in question and as per the averments of Ex. D1 it is averred by the then complainant that his various blank signed cheques are with the accused person of the said case. As per deposition of complainant accused had handed over cheque in question to him on 14-15.07.2016 i.e. the said date is much after the filing of the aforesaid complaint dated 30.03.2016, wherein final report was filed on 27.04.2016. Further as per averments at Point C to D on Ex. D1 the investigating agency had found the complainant, accused and other person in gambling business etc.”

Learned counsel for the applicant-appellant has made sincere attempt to persuade this Court to take a different view, however, keeping in view two positive findings of the Court, one with regard to the admission of the appellant that the cheque in question was handed over to him on 14/15.07.2016 whereas the complaint is dated 30.03.2016 and in Ex.D1 which is a report submitted in previous litigation between the parties that various blank signed cheques have been given by the accused to the applicant-appellant and his accomplices, this Court does not find any ground to grant leave to appeal.

Dismissed .

10.07.2019

Pawan

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned:-
Whether reportable:-

Yes/No
Yes/No