

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

212

CRR No.197 of 2007 (O&M)

Date of decision : 16.07.2019

Guru Parshad Vashishth

... Petitioner

Versus

Pt. Chiranji Lal

.. Respondent

CORAM :HON'BLE MR.JUSTICE ANUPINDER SINGH GREWAL

Present:- Mr. Rahul Vats, Advocate for the petitioner.

Anupinder Singh Grewal, J. (Oral)

The petitioner has challenged the judgments and orders of the trial Court and the Appellate Court, whereby he has been convicted under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter referred to, 'the Act') and sentenced to pay a fine of ₹ 4,50,000/- and in default thereof, to undergo simple imprisonment for six months.

Learned counsel for the petitioner contends that the judgments of the Court below are unwarranted from the evidence on record as it could not be proved that the cheques have been issued for a legally enforceable debt.

It is a case of the complainant that one cheque bearing No.999822 dated 01.02.2003 for an amount of ₹ 2 lacs and another cheque No.999823 dated 31.01.2003 for an amount of ₹ 1 lac were issued by the petitioner in his favour. The complainant presented these cheques for realization to State Bank of India, Sonapat Branch but they were returned on 07.02.2003 due to 'insufficient funds'. The complainant sent a legal notice to the petitioner on 22.02.2003 for making the payment within a period of 15 days and on the failure of the petitioner to make the payment, a complaint under Section 138 of the Act was filed.

The trial Court, while examining the evidence which included the complainant himself as PW-1, D.R. Mehra as PW-2, P.N. Relan, Advocate as PW-3 and two defence witnesses on behalf of the accused, namely, Jagat Singh,

Clerk as DW-1 and Deepak Jain, Handwriting and Finger Print Expert as DW-2, convicted the petitioner under Section 138 of the Act and directed him to pay ₹ 4,50,000/-. The appeal preferred by the petitioner was also dismissed by the lower Appellate Court.

Heard.

The complainant in his evidence had stated that the petitioner had executed a pro-note after receiving the money from him and had partly paid the amount along with a letter Ex.C-10 which the accused has left with the complainant which indicated that he had admitted his liability. PW-2, the Deputy Manager of the Bank had also proved the presentation of the cheques and their dishonour. The complainant in his defence had suggested that the cheques had been procured from him with the help of anti-social elements by threatening him. He had even stated that he was called by one, Pappu Yadav, MP at his Delhi residence on telephone and had threatened him to issue two cheques. However, the petitioner did not produce any evidence in support thereof and it was not his case that he had made a complaint in this regard at any point of time. The defence of the complainant was, thus, rightly disbelieved by the Courts below and therefore, the case against the petitioner had been proved on the basis of the evidence on record. At this stage, learned counsel for the petitioner contends that the petitioner has already paid the amount of ₹ 4,50,000/- to the complainant which is recorded in the order passed by this Court on 03.04.2008. In view of the above, I do not find any ground to interfere with the judgments of the Courts below.

Consequently, the petition stands dismissed.

(ANUPINDER SINGH GREWAL)
JUDGE

July 16, 2019
sonia gugnani

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