

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRR-139-22016 (O&M)

Date of decision: 06.02.2019

Surjit Kaur

..... Petitioner

Versus

Jasdev Singh

..... Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. Manu K. Bhandari, Advocate for the petitioner.

Mr. Narinder Singh, Advocate for
Mr. DS Malwai, Advocate for the respondent.

RAMENDRA JAIN, J. (ORAL)

Through this revision, challenge has been laid to the judgment dated 11.12.2015 of the Ist Appellate Court, dismissing the appeal of the petitioner against the judgment of conviction and order of sentence dated 21.08.2015 of the trial Court, vide which she was held guilty under Section 138 of the Negotiable Instruments Act, 1881 (for short-'the Act') and sentencing her to undergo rigorous imprisonment for a period of one year and pay compensation to the tune of ₹1,00,000/-.

Briefly, the petitioner was tried in a complaint case filed by respondent-Jasdev Singh, under Section 138 of the Act, for bouncing of Cheque No. 073626 for ₹ 5,39,000/- issued by her. After holding trial, she was held guilty and sentenced vide judgment of the trial Court dated 21.08.2015, as narrated in the opening part of judgment.

Being aggrieved, the petitioner approached the Ist Appellate Court, but remained un-successful as her appeal too was dismissed vide

impugned judgment dated 11.12.2015.

Learned counsel for the petitioner *inter alia* contends that the respondent-complainant, admittedly, could not prove the agreement and receipt allegedly executed by the petitioner in token of taking loan from him, despite availing sufficient opportunities. Both the Courts below have wrongly rendered their impugned judgments on the basis of sole statement of respondent-complainant without any corroboration. In support of his contentions, learned counsel has relied upon judgments of Hon'ble Supreme Court in **Vijay Vs. Laxman and another**, 2013(1) RCR (Civil) 980 and **C. Antony Vs. K.G. Raghavan Nair**, 2002(4) RCR (Criminal) 750.

On the other hand, learned counsel for the respondent-complainant vehemently refuting the submissions of learned counsel for the petitioner, pleaded the legality and validity of impugned judgments.

Having given thoughtful consideration to the rival submissions, this Court finds the instant revision completely devoid of any merit, for the reasons to follow:

No question of law, much less substantial, has been raised in this revision.

In revision, this Court has very limited power, which can be exercised only, (i) when the Courts below have acted beyond jurisdiction vested in them or (ii) have not exercised the same diligently and (iii) have exercised illegally. After going through the judgments of both the Courts below, this Court does not find any such infirmity, inasmuch as, they are well-reasoned being based on appreciation of evidence. Therefore, the

same are not required to be interfered with.

That apart, both the Courts below after appreciating the evidence led by both the sides have rendered their respective judgments holding the petitioner guilty under Section 138 of the Act. Therefore, on the basis of un-convincing arguments raised by learned counsel for the petitioner before this Court, they are not liable to be set aside.

It is un-believable that a person of ordinary prudence, would hand over 10 blank cheques duly signed by him, to a third person to obtain loan, inasmuch as, there is no such requirement for obtaining loan. Considering this aspect of the matter, the story put forth by the petitioner is completely concocted and false.

The petitioner has not disputed her signatures on the cheque in question and that the same pertains to her bank account. Therefore, presumption under Section 139 of the Act, in favour of respondent-complainant, being holder of the cheque, has to be drawn and the same has rightly been drawn in his favour by both the Courts below.

In a complaint under Section 138 of the Act, sole testimony of cheque-holder is more than sufficient to hold a person guilty, inasmuch as, quality of evidence has to be seen, not the quantity. Non-production of receipt of the petitioner by the respondent, despite affording him opportunity relates to insignificant aspect of the case in the presence of cheque in question duly signed by the petitioner.

The facts and circumstances of the judgments relied upon by learned counsel for the petitioner are quite distinguishable from the facts of instant case. Therefore, no benefit whatsoever of the same can be

given to the petitioner. More so, every case has its own peculiar facts and circumstances.

I have carefully gone through the impugned judgments of both the Courts below and find no illegality or perversity in the same. The instant revision, being meritless, is dismissed.

A copy of this order be sent to the Chief Judicial Magistrate, Patiala, who shall issue warrants of arrest against the petitioner to undergo remaining part of the sentence.

February 06, 2019
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(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned Yes/No

Whether reportable Yes/No