

CRR-1114 of 2017 (O&M)

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

CRR-1114 of 2017 (O&M)
Date of Decision: 25.03.2019

Anil Kumar

....Petitioner

Versus

Rajbir Singh

....Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present:- Mr. Nipun Vashist, Advocate, for the petitioner.

RAMENDRA JAIN, J. (ORAL)

Through instant revision, petitioner-accused has assailed the judgment of Appellate Court dated 23.02.2017, affirming the judgment of conviction dated 15.03.2016 and order of sentence dated 22.03.2016 of the trial Court, holding the petitioner guilty under Section 138 of the Negotiable Instruments Act, 1881 (in short the 'Act') and sentencing him to undergo simple imprisonment for one year and pay compensation of ₹5,00,000/- to respondent-complainant within 90 days from the date of order, failing which same was ordered to be recovered from him as arrears of land revenue.

Briefly, petitioner was tried, held guilty and sentenced by the trial Court vide judgment of conviction dated 15.03.2016 and order of sentence dated 22.03.2016 in the manner as narrated above in the opening part of the judgment.

Being aggrieved, petitioner approached Appellate Court, but remained unsuccessful as his appeal too was dismissed vide impugned judgment dated 23.02.2017.

CRR-1114 of 2017 (O&M)

to the statement of PW1 Hemant Gupta, Assistant Manager, HDFC bank, Dharuhera, *inter alia* urged that said witness brought record of only one cheque, whereas respondent claimed dishonouring of three cheques of the petitioner. Therefore, trial Court failed to appreciate that respondent-complainant did not prove his allegations in the complaint in its entirety against the petitioner. He further drawing attention to the statement of PW3 complainant Rajbir urged that he throughout showed ignorance about withdrawal of money by him from the bank for advancing alleged loan to the petitioner. Therefore, his this act falsified his case that he ever advanced any loan to the petitioner. Both the Courts below illegally recorded conviction of the petitioner on the uncorroborated bald statement of respondent-complainant. Cheques in question were returned by the bank on account of “difference in signature” of the petitioner. Handing over of the cheques was also denied. In his statement under Section 313 Cr.P.C. too, petitioner categorically denied his signature on the cheques in question. Therefore, both the Courts below believing the defence version of the petitioner, ought to have acquitted him.

Having given thoughtful consideration to the submissions made by learned counsel for the petitioner, this Court finds the instant revision, which is gross abuse of process of law, completely devoid of any merit for the reasons to follow.

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

This Court, while exercising its revisional powers has very limited jurisdiction, which can only be exercised, (i) when the Courts below have acted beyond jurisdiction vested in them or (ii) have not exercised the same

CRR-1114 of 2017 (O&M)

diligently and (iii) have exercised illegally.

Learned counsel for the petitioner has not been able to show any such infirmities in the judgments of both the Courts below.

Section 139 of the Act provides to draw presumption in favour of the holder of the cheque. Learned counsel for the petitioner has not been able to rebut the claim of the respondent-claimant that cheques in question did not belong to the account of the petitioner. Therefore, simple denial of his signature by the petitioner on the same in his statement under Section 313 Cr.P.C. in the absence of any corroborative evidence in defence has to be disbelieved in toto and has also rightly not been taken into consideration.

That apart, petitioner even did not lead any evidence as to in what circumstances, cheques in question belonging to his account reached the hands of respondent-claimant.

All the submissions made above have already been dealt with in detail after appreciation of evidence by both the Courts below. Therefore, their further discussion would simply be a repetition and wastage of precious time of the Court.

Undisputedly, petitioner even did not dare to reply to the legal notice Ex.P8 issued to him by the respondent-complainant, which requires to draw adverse inference against the petitioner that he did not opt to reply to the legal notice, being guilty in his mind and admitting his liability qua cheques in question towards respondent-complainant. Vide legal notice Ex.P8 respondent-complainant had called upon the petitioner to pay amount of three cheques in question.

It is well-settled law that statement of a witness has to be read as a

whole and not in isolation. If statement of PW1 Hemant Gupta, Assistant

CRR-1114 of 2017 (O&M)

Manager, is gone through, the only irresistible conclusion which can be drawn is that this witness has proved all the return memos Ex.P3, Ex.P5 and Ex.P7 of the cheques in question Ex.P2, Ex.P4 and Ex.P6. Therefore, putting of a incomplete question to this witness by learned counsel for the petitioner or to disclose a partial fact, does not discard testimony of this witness.

Trial Court has specifically observed that respondent-complainant very well proved his financial capacity to advance loan to the petitioner by examining himself and the bank official.

I have gone through the judgments of both the Courts below and find no illegality or perversity in the same.

Dismissed.

Learned Chief Judicial Magistrate, Rewari is directed to issue arrest warrants of the petitioner to undergo remaining part of sentence.

March 25, 2019
R.S.

(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No