

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR No. 3403 of 2018 (O&M)
DATE OF DECISION:-20.02.2019

PAWAN KUMAR

...PETITIONER...

V.

STATE OF PUNJAB AND ANR.

...RESPONDENTS...

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Veneet Sharma, Advocate for the petitioner.

RAMENDRA JAIN, J. (ORAL)

Petitioner-accused through this revision has laid challenge to the judgment dated 04.07.2018 of the appellate court, whereby his appeal filed against the judgment dated 23.08.2017 of the trial court, vide which, he was held guilty under Section 138 of the Negotiable Instruments Act, 1881 (for short, "Act") and sentenced to undergo rigorous imprisonment for two years with fine of ₹1,000/-, in default of payment of fine, to further undergo rigorous imprisonment for 15 days, was dismissed.

Briefly, the petitioner was booked, tried and convicted by the trial court in complaint under Section 138 of the Act in the manner as narrated above, on the allegations that the cheque bearing No.845972 dated 14.07.2013 for ₹5.00 lacs issued by the petitioner in favour of the complainant to discharge his liability of loan taken by him from the complainant, on presentation had bounced.

Being aggrieved, petitioner approached first appellate court, but

remained unsuccessful, as his appeal too, was dismissed vide judgment

dated 04.07.2018.

Learned counsel *inter alia* contends that no date, time and month of the advancement of alleged loan of ₹5.00 lacs by the complainant to the petitioner was mentioned in the complaint. The income tax return of the respondent-complainant for the year 2013-14 only proves gross income to the tune of ₹2,21,961/-. Therefore, it was impossible for the respondent-complainant to advance such a huge amount of loan. Both the courts below have failed to appreciate that cheque in question was misused by the respondent-complainant with the connivance of one Sat Pal Bedi. The petitioner is first offender.

Having given thoughtful consideration to the submissions made by learned counsel for the petitioner, this Court finds instant petition completely devoid of any merit for the reasons to follow:-

1. No question of law much less substantial has been raised in the instant petition.
2. This Court, being revisional court has a very limited jurisdiction, which can only be exercised on 3 following infirmities:- (i) if the courts below have exceeded their jurisdiction; (ii) have exercised their jurisdiction illegally and; (iii) have not exercised their jurisdiction diligently.
3. Learned counsel for the petitioner has not been able to show any such infirmity in the judgments of both the courts below
4. The main argument of learned counsel for the petitioner that cheque was misused by the complainant in connivance with

one Sat Pal Bedi is completely false, inasmuch as, petitioner did not examine, said Sat Pal Bedi in his defence, which requires to draw inference against him that he did not adopt any such exercise, deliberately, knowing well that no Sat Pal Bedi had allegedly connived with the complainant.

5. Argument qua inability of the complainant to advance such a huge loan of ₹5.00 lakhs to the petitioner on the basis of his income tax return and balance sheet for the year 2013-14 has already been dealt with by both the courts below in detail and it has been held that in the years 2014-15 and 2015-16, gross income of the complainant was ₹6.00 lakhs. Therefore, it was evident that complainant was having sufficient fund to advance loan of ₹5.00 lakhs to the petitioner in the preceding years.

I have gone through judgments of both the courts below and find no illegality and infirmity in the same. They are well reasoned, being based on appreciation of facts and evidence and thus, do not require any interference. As such, the same are upheld.

Dismissed.

Copy of this order be sent to concerned Chief Judicial Magistrate for issuance of arrest warrants of the petitioner to undergo the remaining sentence.

20.02.2019

(RAMENDRA JAIN)

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JUDGE

whether speaking/reasoned:

Yes/No

whether reportable:

Yes/No