

**CRM-A-1275-2019(O&M)
and connected case**

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

1.CRM-A-1275-2019(O&M)

Vinay Jain

.....Appellant

Versus

Ravinder Singh

.....Respondent

2.CRM-A-1291-2019(O&M)

Vinay Jain

.....Appellant

Versus

Ravinder Singh

.....Respondent

Date of decision: 20.11.2019

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr.Pulkit Goyal, Advocate for the appellant

ANIL KSHETARPAL, J. (ORAL)

By this order, two connected appeals filed by the appellant against the common respondent arising from similar complaint shall stand disposed of.

Appellant filed two criminal complaints under Section 138 of the Negotiable Instruments Act, 1881 complaining that two separate cheques; one for Rs. 4,50,000/- and Rs.50,000/- on presentation have been dishonoured and therefore, respondent has committed offence under Section 138 of the Negotiable Instruments Act. During evidence, appellant produced on record agreement Ex.C-5 to corroborate the fact that the

respondent had due and payable liability. Learned Court on appreciation of evidence found that aforesaid document has been interpolated as initially a photocopy of the agreement was produced followed by original and there was interpolation. This fact was admitted by the complainant-appellant while appearing in evidence. The prosecution in a criminal case is required to establish its case beyond shadow of reasonable doubt. Once the statutory presumption under Section 139 of the Negotiable Instruments Act stands rebutted, the initial presumption in favour of the holder of the cheque goes.

This Court has heard learned counsel for the appellant. Learned counsel although made sincere attempts but could not address any meaningful arguments on the findings with regard to interpolation. However, he submits that in view of presumption under Section 139 of the Negotiable Instruments Act, the judgment of acquittal is wrong. The presumption under Section 139 of the Negotiable Instruments Act does not ipso facto lead to conviction. It is not a substitute of evidence/proof. Statutory presumption under Section 139 of the Negotiable Instruments Act in favour of the holder of the cheque is rebuttable. Therefore, the argument of learned counsel for the appellant that the respondent should have been convicted only on the basis of presumption is fallacious.

In view thereof, there is no ground to grant leave to appeal.

Both the appeals stand dismissed.

20.11. 2019

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Whether speaking/reasoned

Whether Reportable

(ANIL KSHETARPAL)

JUDGE

Yes / No

Yes / No