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

**CRR No.2866 of 2019(O&M)
Date of Decision: 09.01.2020**

Raj Kumar Bansal **.....Petitioner**

Versus

State of Punjab and another **.....Respondents**

CORAM: ***HON'BLE MR. JUSTICE RAJ MOHAN SINGH***

Present: Mr. Tarunveer Vashist, Advocate
for the petitioner.

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RAJ MOHAN SINGH, J.

[1]. Petitioner has preferred this revision petition against the judgment dated 10.10.2019 passed by Additional Sessions Judge, Sangrur, vide which judgment of conviction and order of sentence dated 30.09.2016 passed by Judicial Magistrate First Class, Sunam was upheld.

[2]. Learned counsel for the petitioner submitted that though the petitioner has admitted his signatures on the cheque, but the manner in which the signatures were obtained was fraudulent and due to threat, as the compromise was effected in the Police Station. The signatures on the cheque

were obtained under pressure in connivance with DSP, Sunam. Petitioner had to issue the cheque under the police pressure and his signatures were also obtained on blank stamp papers whereupon the compromise was recorded on 08.10.2010 and cheque was issued on 08.04.2011.

[3]. Evidently, the petitioner had ample time in the interregnum to raise his grounds before the higher authority of police in respect of highhandedness of the DSP, Sunam and the complainant. Petitioner remained silent for six months and did not file any complaint or representation before any authority.

[4]. Virtually, the petitioner has admitted his signatures on the cheque and the same has invited a presumption under Section 118 of the Negotiable Instruments Act that the cheque was issued and drawn for consideration on the date appearing on the cheque. Once the signature on the cheque is admitted, he cannot escape his liability under Section 138 of the Negotiable Instruments Act. Reliance can be placed on ***Gurmeet Singh Vs. State of Haryana, 2012(2) RCR (Criminal) 306*** and ***Rohitbhai Jivanlal Patel Vs. State of Gujarat and another, 2019(2) Civil Court Cases 001 (Supreme Court)***.

[5]. In view of aforesaid precedents, it can be inferred that by virtue of admission qua signature on the cheque, it has to be

presumed that the cheque in question was drawn for consideration and the holder of the cheque received the same in discharge of an existing debt. In such an eventuality, the onus shifts upon the accused to establish a probable defence so as to rebut the presumption. No evidence has been led by the petitioner to rebut the aforesaid presumption. It can also be seen that when presumption is drawn, then result of such presumption would show that there is an existence of legally enforceable debt and factors relating to want of documentary evidence in the form of receipts or accounts or want of evidence and source of funds are not relevant considerations while examining the fact that whether the accused has rebutted the presumption or not.

[6]. Section 139 of the Negotiable Instruments Act enjoins the Court to presume that the holder of the cheque received it for discharge of legally enforceable debt. Such a presumption though is rebuttable in nature, but the petitioner has not led any evidence to rebut the presumption except to allege that his signatures were obtained under pressure in connivance with DSP, Sunam.

[7]. Even as per documentary evidence of the petitioner himself i.e. DW3/A, the same would show that the petitioner had sought information under RTI Act from the Income Tax

Department. When the petitioner had ample time to approach the other authorities in respect of evasion of income tax by the complainant, then certainly he had ample opportunity to expose highhandedness of the police authorities in hierarchy. Even if, the complainant has not shown an amount of Rs.8,50,000/- in his income tax return, the same at the most, can be a violation under the Income Tax Act and may or may not attract any penalty, but in any case, non-mentioning of the amount in the income tax return would not advance the case of the petitioner in any manner.

[8]. In the statement recorded by the petitioner under Section 313 Cr.P.C, the petitioner has taken the plea of forgery and fabrication of the cheque in respect of obtaining his signature by force and signing of the blank stamp papers in connivance of the police with the complainant party. There is no merits in this contention.

[9]. Perusal of the entry in the register of Notary at serial No.2220 dated 08.10.2010 would show that compromise was effected on 08.10.2010. Petitioner should have examined the Notary to corroborate his version in respect of his signatures allegedly obtained on the blank stamp papers. Notary would have been the best person to depose in the said context to prove the case of the petitioner, having not done so, the

petitioner has no legs to stand.

[10]. During course of arguments, this Court also enquired whether the petitioner is ready to pay the amount in question to the complainant. On the pointed query, the answer of the learned counsel for the petitioner is in negative.

[11]. For the reasons recorded hereinabove, I do not find any ground to interfere in this revision petition. This revision petition is accordingly dismissed.

09.01.2020 **(RAJ MOHAN SINGH)**
Prince **JUDGE**

Whether reasoned/speaking Yes/No

Whether reportable Yes/No