

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

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CRR-207-2022(O&M)
Date of Decision : May 23, 2022

PRAHALAD

.....Petitioner

VERSUS

NARENDER KUMAR JASIA

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present : Mr. Susheel Gautam, Advocate
for the petitioner.

JASGURPREET SINGH PURI. J.

The present revision has been filed challenging the judgment passed by the learned Judicial Magistrate 1st Class, Panipat dated 17.7.2018 whereby the petitioner has been convicted under Section 138 of the Negotiable Instruments Act as also the judgment passed by the learned Appellate Court dated 16.11.2021 whereby the appeal filed by the petitioner was also dismissed.

The learned counsel for the petitioner has submitted that the respondent had filed a complaint against the petitioner under Section 138 of the Negotiable Instruments Act pertaining to cheque amount of Rs.4,52,000/-. Thereafter the cheque was presented before the Bank and the same was dishonoured with the remarks “insufficient funds”. Thereafter legal notice alongwith registered AD was also served upon the petitioner but no reply was given in this regard. Learned counsel submitted that there was no legally enforceable debt against the petitioner and there was no money transaction with the complainant. In fact he had

given a cheque to one person, namely, Jai Narain Verma son of Mangli, resident of Cacha Campt, Panipat and the cheque was not given to the complainant and infact the aforesaid Jai Narain Verma in collusion with the present complainant has tried to misuse this cheque by presenting the same in the bank. He submitted that the petitioner has never taken any money from the complainant and the judgments passed by the learned trial Court and the learned Appellate Court are liable to be set-aside.

I have heard the learned counsel for the petitioner and have also perused the record.

The complainant, namely, Narender Kumar CW1 had filed his affidavit Ex.CW1/A by which he has reiterated the contents of the complaint. He was cross-examined by the learned counsel for the accused. As per his version he was owning a medical store and lab collection centre and was doing the business for the last 20-25 years and he knows the petitioner-accused. He had lent an amount of Rs.2 lacs plus 2.50 lacs and the accused had issued a cheque at the time of giving of money. The signature on the cheque has not been disputed by the accused. The only ground taken by the accused was that he did not issue this cheque to the present petitioner while it was issued to one other person, namely, Jai Narain Verma and, therefore, the present cheque was misused by the complainant in connivance with the aforesaid Jai Narain Verma. However, the aforesaid Jai Narain Verma was never examined by the accused. The accused did not even file reply to the notice which was served upon him prior to the institution of the complainant. In the statement under Section 313 Cr.P.C., the accused had denied the

allegations but he did not lead any evidence.

The learned trial Court returned a finding that there was a statutory presumption against the petitioner-accused and the same could not be rebutted by him. The only plea taken by the petitioner-accused was that the cheque was given not to the complainant but to one Jai Narain Verma but he was not even produced by the accused in the Court and, therefore, presumption arose in favour of the complainant which although was rebuttable but the same could not be rebutted by the petitioner-accused. The learned Appellate Court as well observed that after the admission of his signatures on the cheque Ex.C-1, the burden was very heavy upon the accused to prove that such cheque was not issued in discharge of legally enforceable debt in which the accused has miserably failed. The signatures on the cheque are not in dispute and the misuse of the cheque also could not be proved since the aforesaid Jai Narain Verma has not stepped into the witness box. The learned Appellate Court also while dismissing the appeal observed that the presumption which arose in favour of the complainant has not been rebutted by the accused.

The signatures on the cheque have not been disputed by the petitioner. He has not even filed any reply to the notice which was served by the complainant prior to the filing of the complaint. The only plea taken in defence by the petitioner-accused that he had although issued a cheque but not in favour of the complainant but in favour of one other person, namely, Jai Narain Verma who was not examined by the accused.

The scope of the revision petition is always limited. The

learned counsel for the petitioner has not been able to make out any ground for seeking intervention by this Court in revisional jurisdiction on the basis of the aforesaid facts and circumstances. This Court is of the view that no illegality or perversity can be found in the findings returned by the learned trial Court as well as the learned lower Appellate Court.

Consequently, finding no merit in the present revision petition, the same is, hereby, dismissed.

May 23, 2022
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(JASGURPREET SINGH PURI)
JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No