

240 **IN THE HIGH COURT OF PUNJAB & HARYANA**
AT CHANDIGARH
CRM-A-1714-2019
Date of Decision: 10th May, 2022

Ajay Kumar

Applicant/Appellant

Versus

Anwar Ali Shah and another

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Rajesh Lamba, Advocate for the appellants.

AVNEESH JHINGAN, J (Oral):

1. This application is filed under Section 378(4) Cr.P.C. for grant of special leave to appeal against the judgment dated 21st May, 2019 passed by Judicial Magistrate 1st Class, Faridabad.
2. The applicant filed a complaint against Anwar Ali Shah on dishonor of cheque bearing No. 065407, dated 30th May, 2017 for Rs.35,000/-, drawn on Oriental Bank of Commerce.
3. The case of the applicant was that he had advanced loan to the accused and for the repayment of the loan, the cheque was handed over to him which on presentation was returned with the remarks of 'insufficient fund'.
4. During the deposition of the complainant, it revealed that he was running a grocery shop and had no other source of income. He was earning Rs. 18,000/- to 20,000/-. In his cross-examination the complainant faltered and admitted that he had no money to give to the accused, hence he had not taken any receipt from the accused regarding advancing of the loan.

Relying upon the fact that it was not a case where the cheque was handed over to the appellant for discharge of debt or other liabilities, the accused was acquitted.

5. Learned counsel for the applicant argues that the applicant had successfully shown that the cheque was signed by the accused and on presentation it was dishonoured but the trial Court erred in acquitting the accused.

6. The view taken by the trial Court was based upon the evidence adduced, the complainant was not able to withstand cross examination and his story fell flat, as he admitted that he had no money to be given to the accused.

7. The view taken by the trial Court is a plausible view, there is no legal or factual error no case is made out for grant of leave to appeal.

8. The application is dismissed.

[AVNEESH JHINGAN]
JUDGE

10th May, 2022
Parveen Sharma

1. Whether speaking/ reasoned	:	Yes / No
2. Whether reportable	:	Yes / No