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

CRM-A No.197 of 2020
Date of decision: 23rd January, 2023

Veerbhan

… Appellant

Versus

Rohtan Singh

… Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Mohinder S. Kathuria, Advocate
for the applicant/appellant.

MANJARI NEHRU KAUL, J.

Applicant/complainant is impugning the order dated 18.11.2019 passed by the learned Judicial Magistrate 1st Class, Bawal, District Rewari, vide which complaint filed by him under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter referred to as, 'the Act') was dismissed and accused respondent was acquitted of the offence under Section 138 of the Act.

As per the allegations levelled in the complaint, the complainant and the accused respondent as well as their families were well acquainted and on close visiting terms with each other. Since the accused was in need of money, the complainant extended a friendly loan to him in the sum of ₹ 15.00 lacs, on his request. An assurance was given by the accused that the loaned amount would be returned as and when the complainant made a demand. Despite repeated demands made by the complainant, the accused failed to return the loaned amount. However, on 18.07.2017 cheque bearing No.503870 in the sum of ₹ 15.00 lacs drawn on Bank of Baroda, Rewari was given by the accused from his account No.27900200000140 in the name of M/s Shahid Prem Singh Filling Station. On deposit of the cheque by the complainant, it was returned with the remarks ‘account closed’. The complainant contacted the accused and informed him about the return of the cheque. The complainant requested the accused to make payment of the loaned amount, however, the accused failed to do so. Legal notice was sent by the complainant vide registered post on 10.08.2017, in vain. Left with no other option, complaint in question was instituted under Section 138 of the Act.

I have perused the impugned judgment and gone through the relevant record.

The respondent accused denied any friendly relations with the complainant and also receipt of ₹ 15.00 lacs as loan from him. A perusal of the complaint in question reveals that neither any date, time, month or year as to when the loan in question was advanced to the accused finds mention therein.

In his defence, the accused deposed that he had rented out his petrol pump (M/s Shahid Prem Singh Filling Station) to one Ajit Singh, with whom he had executed a rent deed. The complainant had handed over a cheque book comprising of 28 cheques, including the cheque in question, to Ajit Singh for relevant transactions with Indian Oil Company. The respondent was able to successfully prove during trial not only that M/s Shahid Prem Singh Filling Station had been rented out to Ajit Singh but also cheque book containing cheques at Sr. No.503851 to 503900, including the cheque in question, had been handed over to Ajit Singh. It is a matter of record that Ajit Singh executed a written agreement and also admitted the liability of all the cheques including the cheque in question.

Furthermore, strangely, though it was the case of the complainant that he and the accused were on intimate family terms, however, a perusal of his cross-examination reveals that he was not even aware about the family of the accused nor did he remember any details about the house of the accused.

Still further, the complainant admittedly is running a liquor vend and is also an income tax payee. However, he did not lead any evidence from which it could be shown that while filing his income tax returns he had mentioned that a huge loan in the sum of ₹15.00 lacs had been advanced to the complainant. The complainant miserably failed to also establish the source from where he had obtained such a huge amount in the sum of ₹ 15.00 lacs.

This Court does not find any merit in the instant appeal. Dismissed.

(MANJARI NEHRU KAUL)
JUDGE

January 23, 2023
rps

Whether speaking/reasoned Yes/No
Whether reportable Yes/No