

226 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Decided on : 01.03.2023

CRM-A-562-2020

Jagtar Singh

..... Applicant

Versus

Balram

..... Respondent

CRM-A-679-2020

Jagtar Singh

..... Applicant

Versus

Balram

..... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Ashit Malik, Advocate
for the applicant.

Manjari Nehru Kaul, J.(Oral)

This order shall dispose of above said two applications i.e. CRM-A-562 and 679 of 2020 as both of them have arisen out of common judgment dated 11.12.2019 passed by learned JMIC, Kurukshetra. Brief facts of the case are being taken from CRM-A-562-2020 for the sake of convenience.

The instant application has been filed under Section 378(4) r/w Section 482 Cr.PC for grant of leave to appeal against the judgment dated 11.12.2019 passed by JMIC, Kurukshetra whereby the respondent-accused was acquitted of the charges framed against him under Section 138 of Negotiable Instrument Act (hereinafter referred to as 'the Act').

As per allegations levelled in the complaint in question, respondent-accused took an amount of Rs.7,40,000/- through various cheques from the complainant for sending him to Canada. However, the accused was

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unable to send the complainant to Canada, as a result of which, a dispute arose between them. A panchayat was convened and the respondent-accused issued a cheque bearing No.000013 dated 17.06.2017 in the sum of Rs.5 lakhs as part payment of the amount, in favour of the complainant, drawn on Bank of Baroda, Ladwa, District Kurukhsetra to discharge his legal liability. The said cheque on presentation in the bank was however dishonoured. The accused failed to make payment despite repeated requests by the complainant as a result of which a legal notice was served upon him on 27.06.2017, which was duly received by the accused. Since the accused did not return the sum of money taken from the complainant, the latter was left with no other remedy but to file the complaint in question under Section 138 of the Act.

The trial Court, on the basis of evidence and other material led, acquitted the accused by holding that the complainant had failed to show his financial capacity to advance an amount of Rs.7,40,000/- to the respondent-accused.

Learned counsel for the applicant-complainant has vehemently argued that the trial Court erred in ignoring the testimony of CW-2 Rupinder, CW-3 Ravinder and CW-5 Yudhvair by holding that the applicant did not have the financial capacity even though they deposed that they had paid the amount in dispute to the respondent-accused on behalf of the complainant. Learned counsel has further argued that the trial Court erred in relying upon the bald statement of the respondent-accused wherein he stated that he had given the cheque in question to Gurmail Singh, CW-2 Rupinder, CW-3 Ravinder and CW-5 Yudhvair with whom he had monetary transactions, and not to the complainant. Learned counsel has also argued that since the signatures on the

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cheque in question had not been disputed by the respondent-accused, the trial court had further gravely erred in ignoring this vital piece of evidence.

Heard learned counsel for the applicant and perused the relevant material available on record.

This Court does not find any merit in the submissions made by the learned counsel for the complainant. A specific plea was raised by the respondent-accused in his defence that he had given a blank signed cheque to Gurmail Singh, CW-2 Rupinder, CW-3 Ravinder and CW-5 Yudhvair to secure certain monetary transactions with them and Gurmail Singh was a relative of the complainant. A perusal of the complaint given by the complainant mentions that the accused had taken a sum of Rs.7,40,000/- from the complainant through various cheques, however, the said complaint is completely silent that the sum had been arranged through Gurmail Singh, CW-2 Rupinder, CW-3 Ravinder and CW-5 Yudhvair. Once the complainant had omitted this fact in his complaint, testimonies of CW-2, CW-3 and CW-5 would not come to his rescue to fill in the lacuna in his case. The least the complainant could have done was to produce some writing or receipt with regard to the money given by the complainant to the respondent-accused, which admittedly was not done. Though the complainant in his complaint as well as his affidavit stated that a panchayat was convened with the accused, however, during his cross-examination the complainant stated to the contrary that no panchayat was ever convened. The complainant further admitted in his cross-examination that no amount was advanced to the accused from his account.

This Court in the light of the above discussion, thus, does not find

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any illegality much less any perversity in the impugned judgment.

As a sequel to the above, prayer for grant of leave to appeal made by this applicant is declined. Accordingly, the present application(s) stand/s dismissed.

01.03.2023
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(MANJARI NEHRU KAUL)
JUDGE

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