

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

104

CRM-A-252-MA-2015(O&M)  
Date of Decision : December 05, 2023

SANDEEP GROVER

.....Petitioner

**VERSUS**

RAM NIWAS

.....Respondent

**CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI**

Present : Mr. R.S.Mamli, Advocate  
for the applicant.

**KULDEEP TIWARI. J.(Oral)**

**CRM-43747-2023**

1. For valid and good reasons assigned in the application, the same is allowed. The application is ordered to be restored to its original number, and taken on board for hearing today itself.

**CRM-5509-2015**

2. Considering the valid, and, good reasons, as mentioned in the application for condoning the apposite delay of 172 days, therefore, the application is allowed.

3. Delay of 172 days in filing the application, is condoned.

**Main case**

4. The applicant-complainant has filed the present application under Section 378(4) Cr.P.C. for the grant of special leave to appeal against the order of acquittal dated 9.6.2014 recorded by the learned

Chief Judicial Magistrate, Fatehabad whereby the respondent-accused was acquitted of the notice of accusation served upon him vide order dated 20.9.2012.

5. Learned counsel for the applicant submits that there is enough material on record, which raise a statutory presumption in favour of the complainant and which is required to be rebutted by the respondent-accused. However, the respondent-accused has failed to rebut the same, whereas, the learned trial Court has not considered this fact.

6. This Court has examined the impugned judgment passed by the learned trial Court, wherein, the learned trial Court found the following deficiencies in the evidence led by the applicant-complainant, which read as under:-

- “(i) The fatal discrepancy in the case of complainant is that this complaint has been filed by one Sandeep Grover son of Sh. Sham Sunder, in his personal capacity, whereas in fact the cheque was issued in the name of some M/s Fatehabad. Auto Meaning Traders, thereby that, in fact the firm M/s Auto Traders, Fatehabad was the aggrieved persons and the said firm should have filed this complainant through one of its agent or partner. In this manner, the very fundamentals of complaint have turned vicious.
- (ii) The said Sandeep Grover has claimed himself to be partner of the firm Fatehabad. M/s Auto Traders, But surprisingly, no such partnership-deed disclosing him as one of the partners of the said firm has been proved on the record. such

document Surprisingly, has no even been marked on the record, so that if a case on merits might have been found otherwise in favour of the firm M/s Auto Traders, Fatehabad, a judicial notice of the same could have been taken. This is another fatal discrepancy in the case of complainant.

- (iii) It was essential on the part of so-called complainant Sandeep Grover to prove by documentary evidence that some loan was advanced accused in in favour of the February, 2009, as claimed. But surprisingly, no even a single document in this regard, what to talk of a loan file has been proved on record. complainant the As such, where the Sandeep Grover (CW-1) has failed to put forth even bahi claimed to have been maintained in this regard, the said projection of fact stands belied or at least 'not proved'.
- (iv) Last, but not the least, version of complainant the in evidence is that the said amount of Rs.95,000/- constituted the principal amount of Rs. 70,000/- and interest amount of Rs. 25,000/- but these facts do not form part of averments the fundamental nothing where is mentioned as to on what account, the liability of Rs.95,000/- was outstanding towards the accused.”

7. Today, the learned counsel for the applicant has failed to point out any infirmity or illegality in the above findings. The impugned order, vide which the respondent-accused was discharged, is for all reasons, tantamount to acquittal.

8. Ordinarily, the order of acquittal will not be interfered with,

lightly, merely because other view is possible. Upon passing of an order of acquittal, presumption of innocence in favour of the accused gets reinforced and strengthened, as laid down by Hon'ble Supreme Court in ***Harijana Thirupala vs. Public Prosecutor, High Court of A.P., (2002) 6 SCC 470*** as well as held by this Court in CRM-A-2456-MA-2018 titled “**State of Haryana Vs. Shyam Sunder** and in CRM-A-2941-2019 titled “**State of Haryana Vs. Vishal**”.

9. Therefore, this Court does not find any ground to interfere with the order of acquittal. In sequel, the application for leave to appeal is hereby declined, it being bereft of merit, and, the impugned order of acquittal, rendered by the learned Chief Judicial Magistrate, Fatehabad is hereby upheld.

December 05, 2023  
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(KULDEEP TIWARI)  
JUDGE

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