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

**CRM-31021-2021 in/and**
**CRM-A-306-2021**
**DATE OF DECISION:-10.02.2023**

HDFC Bank Ltd. ...Applicant.

**V.**

Jal Singh ...Respondent..

**CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA**

Present: Mr. Saurabh Bhardwaj, Advocate
for the applicant.

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**<u>HARKESH MANUJA, J. (ORAL)</u>**

**<u>CRM-31021-2021</u>**

Prayer in this application is for condonation of delay of 1296 days in filling the application for seeking leave to appeal.

I have heard learned counsel for the applicant and gone through the contents of the application which is duly supported by an affidavit.

The reasons mentioned in the application for the purpose of seeking condonation of delay is that while reshuffling of the files in the office of learned counsel for the applicant in the month of March, 2020, during the Covid period while the Courts were closed, the case file could be traced out, which earlier got misplaced/mixed up in the decided cases, on account of bonafide error.

The aforesaid reasons mentioned in the application appears to be sufficient to condone the delay. Accordingly, the application stands allowed and delay of 1296 days in filing the main application is condoned.

**CRM-A-306-2021**

Instant application has been preferred under Section 378(4) Cr.P.C. seeking leave to appeal against the judgment of acquittal passed by JMIC, Karnal whereby the complaint filed by the applicant against the respondent for offence punishable under Section 138 of the Negotiable Instruments Act, 1881 stands dismissed.

2. Cheque (Exhibit C1) dated 05.03.2014 drawn on Oriental Bank of Commerce, Karnal for a sum of Rs.9,85,606/- is the subject matter of the present complaint. The accused had a loan account with the Centurion Bank of Punjab Ltd which merged with HDFC bank in the year 2008 and such petition seeking amalgamation was allowed whereby the date of merger was decided to be 23rd of May of 2008. Resultantly in the light of the aforesaid facts the Trial Court held as under :-

> *"25. It is clear on record that the Centurion Bank of Punjab Ltd. Bank was not in existence at the date mentioned on the cheque in question i.e. 05.03.2014 as it has got amalgamated into HDFC Bank Ltd. Vide resolution i.e. Ex.C6 dated 20.05.2008 w.e.f. 23.05.2008. Therefore, this is absolutely inconceivable that a person would issue a cheque in the name of a non-existent entity i.e. Centurion Bank of Punjab Ltd. especially when he is aware of the factum of the amalgamation. It is also highly inconceivable that HDFC Bank Ltd. (complainant herein) would accept cheques subsequent to the amalgamation in favour of non-existent entity i.e. Centurion Bank of Punjab Ltd. Therefore, the submissions of the accused that the cheque in question Ex.C1 was issued to and in the name of Centurion Bank of Punjab Ltd. at the time of sanctioning of loan and the complainant i.e. HDFC Bank Ltd., has misused the same finds more force and seems more probable."*

and dismissed the complaint.

3. Having heard counsel for the parties and after going through the records of the case, this Court is of the considered opinion that no legal infirmity could be found with the impugned judgment of acquittal. Moreover, counsel for the applicant is not in position to dispute the fact that in similar circumstances Co-ordinate Bench of this Court in **CRM-A No.10857-MA of 2018** titled as **HDFC Bank Ltd vs. Ram Singh** vide order dated 18.11.2019 and **CRM-A-2325-MA-2018** titled as **"HDFC Bank Ltd. vs. Suresh Pal"** vide order dated 19.12.2022, dismissed the application preferred by the complainant seeking leave to appeal.

4. Resultantly, no ground to interfere in the impugned judgment is made out. The same is ordered to be dismissed.

10.02.2023 **(HARKESH MANUJA)**
sonika **JUDGE**

whether speaking/reasoned: Yes/No
whether reportable: Yes/No