

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

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**CRM-A-179-2021 (O&M)  
RESERVED ON: 13.02.2023  
PRONOUNCED ON:06.06.2023**

**M/S JOGINDER SINGH SATNAM SINGH THROUGH ITS  
PROPRIETOR**

... Applicant/Appellant

**VERSUS**

**STATE OF HARYANA AND ANOTHER**

... Respondents

**CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL**

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Present:     Mr. Manu Sachdeva, Advocate for  
                  Mr. Abhimanyu singh, Advocate  
                  for the applicant-appellant.

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**SANDEEP MOUDGIL, J. (ORAL)**

By filing the present appeal, under Section 378(4) Cr.P.C. the appellant has assailed the judgment dated 16.03.2020, passed by the Judicial Magistrate Ist Class, Kurukshetra, dismissing the complaint and acquitting the respondent-accused therein of the notice of accusation served upon him under Section 138 of the Negotiable Instruments Act (for short 'the Act').

It is contended that the judgment passed by the trial Court suffers from grave illegality, perversity and the same is based upon surmises and conjectures and as such the same is liable to be set aside. It is further contended that the trial Court gave the benefit of acquittal to the respondent-accused on the ground that there are certain discrepancies in the version of

the complainant, which culminated into being the defence of accused probable and trustworthy. Such finding is erroneous and deserves to be set aside as the trial Court has utterly failed to appreciate the well proven oral as well documentary evidence of the complainant. It is further contended that the learned trial Court failed to appreciate that the respondent-accused has himself admitted his signature on the impugned cheque. It is well settled position in law that once an accused admits his signatures on the cheque, then, it can legally be presumed that the cheque has been issued in discharge of a legally enforceable debt. The presumption under Section 139 of the N.I. At, 1881 in the present case is very strong in favour of the applicant-appellant, but in spite of that, the trial Court returned a finding of acquittal while dismissing the complaint in question. Despite being a fully proven case, the trial Court has wrongly and illegally acquitted the accused. Hence, the impugned judgment dated 16.03.2020 is liable to be set aside.

Heard.

I have perused the impugned judgment carefully and have also meticulously gone into the findings recorded by the trial Court. Upon perusal of the same, I do not find any perversity or illegality therein. The complainant specifically deposed in his evidence that the respondent-accused and his brother had come to his shop to settle the account in December 2016, whereas in his complaint, he has categorically mentioned that the accused-respondent and his brother had come to his shop on 20.11.2017 to settling the account. This is certainly a material and noticeable contradiction in the version of the applicant-petitioner. Further, it is also noteworthy that as per the complainant the total outstanding amount against

the respondent-accused on 15.11.2016 was Rs.4,76,985/-, whereas the cheque in question had been issued for a lesser amount i.e. Rs.4,29,551/- on 20.11.2017. It is very hard to digest that on 15.11.2016 the outstanding amount was Rs.4,76,985/- and with the passage time, the amount should have been increased with the levy of interest; however, on the contrary, the amount does not increase rather it has been shown to be decreased. This fact also gives a serious blow to the version of the applicant- petitioner. Hence, it can be said that the applicant-petitioner has grossly failed to prove that the cheque in question was issued qua discharge of any legally enforceable debt and consequently, he fails to prove the necessary ingredients to bring home guilt of accused under Section 138 of the N.I. Act, 1881. The respondent-accused has successfully rebutted the presumption under Section 139 of the N.I. Act, 1881 and as such the judgment of acquittal has been rightly passed by the learned Court below.

It is a settled law as held in **C. Antony v. K.G. Raghavan Nair, 2002(4) RCR(Criminal) 750** that even if a second view on appreciation of evidence is possible, the Court will not interfere in the acquittal of the accused. In the cases of acquittal, there is double presumption in his favour; first the presumption of innocence, and secondly the accused having secured an acquittal, the Court will not interfere until it is shown conclusively that the inference of guilt is irresistible.

On perusal of the judgment passed by the trial Court dated 16.03.2020, this Court is of the considered view that the said judgment is well reasoned and is based upon proper appreciation of evidence led by the parties. The ground of acquittal, as has been culled out by the trial Court,

cannot be said to be faulty, contrary to law or requiring any interference by this Court. The accused-respondent has been duly able to rebut the presumption under Section 139 of the N.I. Act, 1881 and as such, he has rightly been acquitted of the notice of accusation served upon him.

Accordingly, the leave to appeal stands declined.

Dismissed.

06.06.2023  
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(SANDEEP MOUDGIL)  
JUDGE

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