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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-A-2354-2019 (O&M)
Date of Decision: 10.08.2023

SURENDER SINGH

Applicant

Versus

RAJESH KUMAR MOR

Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Manav Dhull, Advocate for
Mr. Ramesh Hooda, Advocate,
for the applicant.

JASGURPREET SINGH PURI, J. (ORAL)

CRM-31626-2019

For the reasons mentioned in the application, the same is allowed and the delay of 155 days in filing the application for grant of leave to appeal under Section 378(4) Cr.P.C., is hereby condoned.

Application stands disposed of.

CRM-A-2354-2019

1. The present application has been filed under Section 378(4) of Cr.P.C. for grant of leave to appeal against the judgment dated 17.01.2019 passed by the learned Additional Chief Judicial Magistrate, Jind, whereby the respondent has been acquitted.

2. Learned counsel for the applicant has submitted that the impugned judgment is erroneous in view of the fact that once the signatures are admitted then the presumption is in the favour of the complainant and, therefore, the impugned judgment deserves to be set aside.

3. I have heard the learned counsel for the applicant.

4. A perusal of the impugned judgment would show that the respondent-accused has been acquitted on the ground that the signatures are admitted by the respondent-accused but the cheque on which he had signed was not of the account of the respondent-accused but was of his wife, which is a different account. The respondent-accused has been acquitted on the ground that the basic ingredient of Section 138 of the Negotiable Instruments Act has not been fulfilled because one of the essential condition for invoking Section 138 of the Negotiable Instruments Act is that where any cheque is drawn by a person and the account is maintained by him with the banker for the payment of money only, then the provisions of Section 138 of the Negotiable Instruments Act can be invoked. However, in the present case the account was not maintained by the respondent-accused nor he was the account holder of the cheque on which he had signed.

5. In view of the above, this Court does not find any merit in the present application nor does see any reason to grant leave to appeal.

6. Consequently, the present application filed under Section 378(4) of Cr.P.C., is hereby dismissed.

10.08.2023
Chetan Thakur

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No