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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-A-2057-2019(O&M)
Date of Decision: 03.08.2023

Parth Chauhan

....Applicant(s)

Versus

Subhash Chander

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Arun Singal, Advocate, for the applicant.

JASGURPREET SINGH PURI, J.

1. The present application has been filed under Section 378 (4) of the Code of Criminal Procedure for grant of special leave to appeal from the order of acquittal dated 24.07.2019.

2. Learned counsel for the applicant has submitted that the impugned order dated 24.07.2019 passed by the learned Judicial Magistrate Ist Class, Sonapat was erroneous since the applicant was able to prove his case in accordance with the provisions of Section 138 of the Negotiable Instruments Act, 1881 and therefore, the respondent has been wrongly acquitted in the present case. He submitted that the presumption under Sections 139 and 118A of the Negotiable Instruments Act, 1881 has not been rebutted and therefore, special leave to appeal may be granted.

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

4. A perusal of the impugned judgment would show that it is a case where a cheque of Rs. 6,25,000/- drawn on UCO Bank, Kundli

Branch, Sonapat was issued in favour of the complainant. A legal notice was sent through registered post demanding the aforesaid amount but despite service of notice, the respondent did not pay the amount and therefore, the present complaint has been filed under Section 138 of the Negotiable Instruments Act, 1881. Learned trial Court while discussing the merits of the case observed that in the legal notice the cheque number was wrongly mentioned as 875208 and the cheque which has been filed with the complaint bears No.975208. Apart from the above in the legal notice it has been mentioned that the complainant stood surety for a loan taken by the accused from nationalized bank which was factually wrong statement. The complainant in his cross-examination has admitted that the person who had stood as a guarantor was his brother namely Kanwar Singh Chauhan but he has not been examined as the complainant failed to bring his brother to depose before the Court regarding the alleged transactions. The learned trial Court came to the conclusion that the respondent has been able to rebut the presumption under the provisions of the Negotiable Instruments Act, 1881. This Court is of the view that one of the reasons for acquitting the accused was that the legal notice itself was defective by giving description of a cheque number which was not a subject matter of the complaint. Therefore, this Court is of the view that no ground is made out for seeking leave to appeal under Section 378 (4) of the Code of Criminal Procedure.

5. Consequently, the present application is hereby dismissed.

03.08.2023

rakesh

Whether speaking
Whether reportable

(JASGURPREET SINGH PURI)

JUDGE

: Yes/No
: Yes/No