IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR-2099-2022 (O & M)
Date of decision: 22.12.2023

Pawan Kumar …... Petitioners

V/s

G.J.V., Enterprises and anr. ...Respondents

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Sant Pal Singh Sidhu, Advocate,
for the petitioners.

Mr. Deepak Vashishth, Advocate,
for respondent No.1.

Mr. Rajiv Goel, DAG, Haryana.

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JASJIT SINGH BEDI, J. (Oral)

The present revision petition has been preferred against the impugned judgment dated 28.07.2022 passed by the Additional Sessions Judge, Hisar vide which the judgment of conviction and order of sentence dated 22/24.08.2017 passed by the Judicial Magistrate Ist Class, Hisar, has been upheld.

2. The brief facts of the case as emanating from the pleadings are that the complainant-G.J.V. Enterprises through its partner Gourav Tanwar filed a complaint bearing Criminal Complaint No.441-II with the allegations that Sai Gold India Enterprises Private Limited was a firm being run by the petitioner and his co-accused Krishan Kumar Soni. In order to give a Franchise of the said firm, the complainant deposited a sum of Rs.97,50,000/- on various dates between 02.08.2012 to 04.05.2013.

However, the deal could not materialize and Pawan Kumar (petitioner) and Krishan Kumar Soni agreed to return the amount of security deposited by the complainant for the Franchise. For discharging their liability, the accused issued four different cheques. The details of which are as under:-

Sr. No.	Cheque No.	Dated	For a sum of (Rs.)	Drawn on
1.	570575	30.11.2013	10,00,000/-	Andhra Bank, Hisar Branch, District Hisar against account No.16671100001185
2.	570576	31.12.2013	50,00,000/-	Andhra Bank, Hisar Branch, District Hisar against account No.16671100001185
3.	570577	31.01.2014	25,00,000/-	Andhra Bank, Hisar Branch, District Hisar against account No.16671100001185
4.	570578	28.02.2014	25,00,000/-	Andhra Bank, Hisar Branch, District Hisar against account No.16671100001185

3. All the cheques were dishonoured. Therefore, two complaints were filed bearing Criminal Complaint No.441-II instituted on 05.03.2014 qua cheque No.570575 dated 30.11.2013 for a sum of Rs.10,00,000/- drawn on Andhra Bank, Hisar Branch, District Hisar against account No.16671100001185 and cheque No.570576 dated 31.12.2013 for a sum of Rs.50,00,000/- drawn on Andhra Bank, Hisar Branch, District Hisar against account No.16671100001185.

4. The second complaint bearing Criminal Complaint No.658-II was instituted on 20.05.2014 qua cheque No.570577 dated 31.01.2014 for a sum of Rs.25,00,000/- drawn on Andhra Bank, Hisar Branch, District Hisar against account No.16671100001185 and cheque No.570578 dated 28.02.2014 for a sum of Rs.25,00,000/- drawn on Andhra Bank, Hisar Branch, District Hisar against account No.16671100001185.

5. The Court of the Judicial Magistrate Ist Class, Hisar (Trial Court) vide its judgment of conviction 22.08.2017 and order of sentence dated 24.08.2017 convicted the petitioner and his co-accused in criminal complaint No.441-II and sentenced them to undergo imprisonment for the period of 02 years and to pay a compensation of Rs.1,20,00,000/-.

6. On the same days i.e. on 22.08.2017 and 24.08.2017, the Trial Court vide its judgment of conviction and order of sentence, convicted the petitioner and his co-accused in Criminal Complaint No. 658-II dated 20.05.2014 and they were sentenced to undergo imprisonment for the period of 02 years and to pay a compensation of Rs.1 Crore to the complainant.

7. Aggrieved by the aforementioned judgments of conviction of the Trial Court, the petitioner filed Criminal Appeal No. 458 of 2017 in Criminal Complaint No.441-II before the Additional Sessions Judge, Hisar. The said Court vide its judgment dated 28.07.2022 dismissed the appeal filed by the petitioner thereby affirming the judgment of conviction and order of sentence passed by the Judicial Magistrate Ist Class, Hisar.

8. Aggrieved by the said order, the petitioner filed the present petition bearing Criminal Revision No. 2099-2022 before this Court.

9. Meanwhile, aggrieved by the order of the Trial Court in Criminal Complaint No. 658-II dated 20.05.2014, the petitioner filed Criminal Appeal No.457 of 2017 before the Additional Sessions Judge, Hisar. The said Court vide its judgment dated 27.07.2022 dismissed the appeal filed by the petitioner thereby affirming the judgment of conviction and order of sentence passed by the Judicial Magistrate Ist Class, Hisar. Aggrieved by the said order, the petitioner filed a connected petition bearing Criminal Revision No. 2097 of 2022.

10. The co-accused of the petitioner, namely, Krishan Kumar Soni also challenged his conviction vide two different appeals i.e. Criminal Appeal No.455 of 2017 and Criminal Appeal No.459 of 2017. During the pendency of the appeal, Krishan Kumar Soni settled the matter with the complainant and admitted his liability to pay 50% of the total cheque amount and thus, his appeals were accepted by the Additional Sessions Judge vide judgment dated 11.07.2022 and he was acquitted.

11. The learned counsel for the petitioner contends that it was the admitted case of the complainant that an amount of Rs.97,50,000/- had been given as a security. It was improbable that the accused would give cheques for an amount totalling Rs.1,10,00,000/- to the respondent No.1-complainant for discharging the liability of Rs.97,50,000/-. From the evidence, it was clearly established that the petitioner had resigned from the company on 28.02.2014 and the cheque in dispute had been handed over to the respondent No.1/complainant after his resignation. Therefore, no liability could be imposed upon the petitioner. Admittedly, the Franchise agreement was not executed by the petitioner and he was not the Managing Director of the company so the liability of the petitioner was not made out. In fact, as the cheques were given as a refund of the security amount, they could not be said to be legally enforceable debt. He, therefore, contends that the judgments of conviction were liable to be set aside and the petitioner/accused ought to be acquitted.

12. The learned counsel for the respondent No.1, on the other hand, contends that the offence stands established beyond any reasonable doubt. The signatures on the cheques stood admitted. Therefore, the complainant had discharged the statutory presumption under the Act. In fact, there was

no evidence that the blank security cheques had been misused. The co-convict of the petitioner, namely, Krishan Kumar Soni had accepted his guilt and on payment of 50% of the cheque amount he had been acquitted. Therefore, the petitioner could not be absolved of the findings arrived at against him.

13. I have heard the learned counsel for the parties.

14. A perusal of the record would reveal that the signatures on the cheques in question stand admitted. The statutory presumption under the Act has been discharged by the complainant. There is no evidence that the blank signed security cheques had been misused. The issuance of the cheques and their subsequent dishonour stand admitted beyond any reasonable doubt. Therefore, the offence stands established beyond any reasonable doubt.

15. In view of the aforementioned discussion, I find no merit in the present petition and the same stands dismissed.

(JASJIT SINGH BEDI)
JUDGE

December 22, 2023
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No