

CRM-A-825-MA of 2017 (O&M)

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

CRM-A-825-MA of 2017 (O&M)

Date of decision: 18.04.2023

H.D.F.C. Bank Ltd.

.....Applicant

Versus

Nachhattar Singh

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

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

NAMIT KUMAR, J.

CRM-14032 of 2017

1. This application has been filed by the applicant under Section 5 read with Section 14 of the Limitation Act, 1962, for condonation of delay of four days in filing application under Section 378(4) Cr.P.C.

2. In view of the averments made in the application, same is allowed. Delay of four days in filing the application under Section 378(4) is condoned.

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1. Through this application under Section 378(4) Cr.P.C prayer has been made for permission to file appeal against order dated 21.11.2016 passed by learned Judicial Magistrate 1st Class, Faridkot, whereby complaint filed by the applicant under Section 138 read with Section 142 of the Negotiable Instruments Act, (for short 'the Act') has been dismissed and respondent has been acquitted of the charges framed against him.

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2. Brief facts of the case are that respondent obtained/availed financial assistance in the shape of agricultural cash limit to the extent of Rs.1,10,000/- on 24.01.2006 from the erstwhile Bank of Punjab Ltd. B.O. Kotkapura and undertook to repay ACC limit every half yearly with interest. After some time, Bank of Punjab got amalgamated with Centurion Bank of Punjab Ltd. and all assets and liabilities of Bank of Punjab Ltd. had merged into applicant-HDFC Bank Ltd. Respondent issued cheque No.197055 dated 05.05.2012 for a sum of Rs.1,23,065/- drawn on Centurion Bank of Punjab Ltd., Kotkapura, in favour of BOP Ltd. On presentation of the said cheque by the applicant-Bank, the same was returned by the banker of the respondent with remarks "Account Closed". After receipt of the initiation regarding dishonor of cheque issued by the respondent, applicant-complainant issued registered legal notice on 30.07.2012 through its counsel. However, as the respondent failed to repay the amount, applicant filed complaint under Section 138 read with Section 142 of the Act. After hearing the learned counsel for the parties and going through the record, complaint filed by the applicant-complainant has been dismissed by the trial Court vide impugned order dated 21.11.2016 by observing as under: -

"19. But in the present complaint, complainant has not filed any application for condonation of delay in filing the present complaint. Rather, it is a positive case of the complainant that present complaint has been filed within limitation period. And bare perusal of the legal notice dated 30/07/2007 and date of filing of the present complaint i.e. 18/09/2012 reveals that present complaint was filed on the 50th day in court which is clearly beyond

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the total period of 45 days as per the provision of section 138 and 142 of negotiable instrument act.

20. Hence, in the present complaint, mandatory condition of making the person liable under section 138 of Negotiable Instrument Act is not fulfilled as complaint was filed beyond the period of one month as specified in section 142 of the Act. Hence, the accused is acquitted from the charges framed against him under Section 138 of Negotiable Instrument Act. File be consigned to record room.”

3. I have heard learned counsel for the applicant and perused the record.

4. Learned counsel for the applicant has not been able to point out any illegality or perversity in the impugned order. Learned counsel also did not dispute that in similar circumstances, Co-ordinate Benches of this Court in **CRM-A-10857-MA of 2018 – HDFC Bank Ltd. v. Ram Singh** and **CRM-A-2325-MA of 2018 – HDFC Bank Ltd v. Suresh Pal** vide orders dated 18.11.2019 and 19.12.2022, respectively have dismissed the applications preferred by the applicant-complainant seeking leave to appeal.

5. In view of the above, no ground is made out to interfere with the impugned judgment. Hence, the present application stands dismissed.

(NAMIT KUMAR)
JUDGE

18.04.2023
R.S.

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No