

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Crl. Revision No. 2943 of 2022 (O&M)

Date of Decision: January 31, 2023

Paramjit Kumar

.....Petitioner

versus

Sandeep Singh and another

.....Respondent

CORAM: HON'BLE MR.JUSTICE SUDHIR MITTAL

Present: Mr. Lakhwinder Singh Lakhanpal, Advocate for the petitioner

Sudhir Mittal, J. (Oral)

A complaint under Section 138 of the Negotiable Instruments Act, 1881 was filed against the petitioner for dishonor of a cheque dated 01.05.2014 for a sum of Rs. 17 lacs. After examining the evidence on record and due appreciation thereof the petitioner was convicted and sentence to undergo rigorous imprisonment for a period of one year and to pay fine of Rs. 1000/-. Appeal there against has been dismissed vide judgment dated 07.11.2022. Thus, the present revision petition has been filed.

Learned counsel for the petitioner has argued that the complainant was not able to show his capacity to advance such a huge sum of money. The Courts below have relied upon withdrawal of money from the father's account but the father was never examined and, thus, the finding in this respect is not sustainable in law. It has also been submitted that the cheque in dispute was stolen by the complainant and was never issued by the petitioner and finding to the contrary by the Courts below is illegal. Finally, it has been submitted that the cheque was signed in the presence of Baldev Singh Lambardar but said Baldev Singh Lambardar was never examined as a witness. Thus, issuance of the cheque by the petitioner has not been proved.

The argument regarding non-issuance of cheque by the petitioner is being considered first. Admittedly, the complainant has presented a cheque

presumption arose in favour of the holder thereof. It was for the accused-petitioner to rebut this presumption but he has failed to do so.

Learned counsel for the petitioner has not raised any argument that the presumption stood rebutted and that the evidence in this regard has been misread/ignored by the Courts below. Non-examination of Baldev Singh Lambardar does not rebut the presumption in favour of the complainant and, thus, the argument is rejected.

The next argument is regarding non-availability of sufficient means to advance a loan of Rs. 17 lacs. To prove withdrawal of money from his father's account, the complainant has produced the Bank Manager who has deposed that a sum of Rs. 34 lacs was withdrawn by the complainant from his father's account. Thus, withdrawal of the money stood proved and examination of the father was not required. This argument is also consequently rejected.

Finally, the argument regarding stealing of the cheque by the complainant is being dealt with. A perusal of the order of the appellate Court shows that no FIR or DDR was registered by the petitioner regarding stealing of the cheque nor did he intimate the Bank about the same. Accordingly, it has been held that the contention regarding stealing of the cheque was not proved. The said finding is proper and legal and cannot be said to be perverse. Thus, this argument also deserves to be rejected.

For the foregoing reasons, the revision petition has no merit and is dismissed.

Since the main case has been dismissed, pending miscellaneous applications also stand disposed of.

January 31, 2023

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[SUDHIR MITTAL]

JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No