2024:PHHC:163117

226 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-609-2019 (O&M)
Date of Decision: 18.10.2024

Hari Chand Bansal …Petitioner

vs.

Saloni Bhalla …Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present : Mr. Atul Kaushik, Advocate
for the applicant/petitioner.

***

N.S.Shekhawat J.

CRM-8613-2019

1. The applicant/petitioner has moved the instant application for condonation of delay of 13 days in filing the present revision petition.

2. For the reasons mentioned in the application, the minimal delay of 13 days in filing the present revision petition is condoned.

CRR-609-2019

1. The petitioner has filed the present revision petition against the impugned judgment dated 25.10.2018 passed by the Court of Additional Sessions Judge, Sri Muktsar Sahib, whereby the respondent has been acquitted of the notice of accusation under Section 138 of the Negotiable Instruments Act (hereinafter referred to as the "Act"). The petitioner/complainant has filed a complaint under Section 138 of the "Act" by alleging that the respondent/accused had taken a loan of Rs.14,00,000/- in cash from the petitioner on interest at the rate of 2% per month in the presence of Ankur

HITESH
2024.12.12 09:59
I attest to the accuracy and
authenticity of this
document/judgment
High Court, Chandigarh

Bansal and Pawan Kumar Sharma. At that time, the respondent promised to repay the principal amount after ¾ months and issued a post dated cheque No.116346 dated 26.09.2014 for an amount of Rs.14,84,000/-. The cheque was signed by the respondent and was endorsed in favour of the petitioner. When the cheque was presented for encashment, it was returned unpaid by the bank with the remarks "Funds Insufficient". Despite issuance of statutory notice dated 14.10.2014, the respondent did not make the payment and the petitioner was constrained to file a complaint before the Trial Court.

2. In order to prove the case, the petitioner examined himself as CW-1 and after exhibiting certain documents, the evidence was closed.

3. In his statement under Section 313 Cr.P.C., respondent denied all the allegations as well as the evidence led by the petitioner and pleaded innocence. In defence, the respondent did not lead any evidence.

4. Learned counsel for the petitioner contends that the respondent was rightly convicted by the Trial Court, however, the Appellate Court committed the grave error in acquitting the respondent. He further contends that the provisions of Section 138 of the "Act" were duly attracted in the present case and the petitioner had proved the case beyond the shadow of reasonable doubt. Thus, the impugned judgment is legally unsustainable.

5. I have heard the submissions made by learned counsel for the petitioner and perused the record with his able assistance.

6. Having heard learned counsel for the petitioner, this Court finds no merits in the submissions raised by learned counsel for the petitioner. The Appellate Court rightly observed that as per the petitioner, the loan amount of

HITESH
2024.12.12 09:59
I attest to the accuracy and authenticity of this document/judgment
High Court, Chandigarh

Rs.14,00,000/- was advanced by the petitioner to the respondent in June, 2014. However, the whole case was demolished by his own statement Ex.D-1, which was admittedly made by him in the enquiry. In Ex.D-1, he had categorically stated that he had advanced a sum of Rs.14 lacs to the respondent in the month of April 2014. He stated that Rs.6,00,000/- were handed over to the husband of the respondent by withdrawing from the account of his father on 10.04.2014, whereas, the remaining amount of Rs.8,00,000/-were given to him in cash. Thus, the averment that the petitioner had advanced a loan of Rs.14,00,000/-to the respondent in June 2014 is found to be incorrect. Apart from that, the petitioner also failed to give exact date and time and the manner of advancing loan of Rs.14,00,000/- to the respondent. Apart from that, the petitioner could not lead any evidence that the petitioner and the respondent knew each other earlier. He did not know about the parental address of the respondent and admitted that he had never attended their family function nor the respondent side had visited the family function of the petitioner. However, surprisingly, the amount of Rs.14,00,000/- was advanced by the petitioner in cash to an unknown person i.e. the respondent and the story projected by the petitioner was rightly dis-believed by the Appellate Court. This Court also finds sufficient force in the findings recorded by the Appellate Court, wherein it was observed that the at the time of advancing of loan, no written document was scribed between them. No other document was taken by the petitioner as security at the time of loan advancement and the amount of Rs.14,00,000/- was given without getting any receipt etc. Thus, the Appellate Court rightly observed that the presumption under Section 139 of the “Act” stood rebutted in the present case

HITESH
2024.12.12 09:59
I attest to the accuracy and authenticity of this document/judgment
High Court, Chandigarh

and the respondent was rightly acquitted.

7. Even otherwise, I have carefully gone through the findings recorded by the Ist Appellate Court and finds no reason to overturn the judgment passed by the Appellate Court.

8. Thus, in view of the above discussion, the present revision petition is ordered to be dismissed.

(N.S.SHEKHAWAT)
JUDGE

18.10.2024
hitesh

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No

HITESH
2024.12.12 09:59
I attest to the accuracy and authenticity of this document/judgment
High Court, Chandigarh