IN THE PUNJAB AND HARYANA HIGH COURT AT CHANDIGARH

CRM-A-32-2024
Date of Decision: 20.02.2024

SATNARAYAN @ SAT NARAIN
…..APPELLANT

VERSUS

STATE OF HARYANA AND ANR .....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr.Vinod Bhardwaj, Advocate and
Mr. Nipun Bhardwaj, Advocate
for the Appellant.

Mr. GP Chinna, AAG, Haryana.

****

SANDEEP MOUDGIL, J

1. The application under Section 378(4) CrPC has been filed by the appellant seeking leave to appeal against the judgment dated 03.03.2023 passed by JMFC, Narvana (in short, 'the trial court'), vide which the respondent has been acquitted in a complaint bearing no. RVT-220-2018 filed by the appellant under Sections 138, 141 and 142 of the Negotiable Instruments Act, (in short, 'the NI Act'), on the ground that the appellant has failed to prove the cheque in question was issued to him by the accused-respondent in discharge of legally enforceable debt and also, the appellant also failed to prove any kind of relationship between him and the accused-respondent.

2. Briefly putforth, the facts of the case are that through one Rajinder Kumar son of Ranjit Singh, the accused-respondent had took a friendly loan for a sum of Rs. 3,50,000/- from the appellant in January 2017 and in order to

Anuradha
2024.07.11 23:48
I attest to the accuracy and
integrity of this document

discharge his legal liability, accused-respondent issued a cheque bearing no. 981532 dated 23.01.2018 which got dishonoured due to “Insufficient Funds” vide memo dated 14.03.2018 and thereafter the appellant served a registered legal notice dated 16.03.2018 but no heed was paid to it which compelled the appellant to file a complaint under section 138 of NI Act which was dismissed by the trial court (Narvana) vide judgment dated 03.03.2023. Hence, the present appeal.

3. Counsel for the appellant contends that the trial court failed to appreciate the fact that the accused-respondent had himself admitted the fact that he has borrowed money from the appellant and in this regard had issued receipt dated 10.09.2017 but the same has not been taken into consideration by the trial court. Further, the accused-respondent neither denied his signatures on the cheque in question nor led any evidence that the same was forged and fabricated.

4. He vehemently while relying upon the judgment of the Hon’ble Apex Court in ***“M/s Kalamani Tex & Anr. Vs P.alasubramanian(CRI.Appeal No.123 of 2021)”*** argues that the trial court has ignored the settled proposition of law that the admission of signatures by the accused-respondent give strength to the presumption that the same has been signed with regard to repayment of legally enforceable debt.

5. Having heard learned counsel for the appellant and going through the case file, this Court is of the considered opinion that there is no illegality or infirmity in the judgment passed by the trial court.

6. From perusal of the facts, it is not disputed that the accused-respondent is signatory of the cheque in question but on the other hand it is a

Anuradha
2024.07.11 23:48
I attest to the accuracy and
integrity of this document

settled principle of law that the accused-respondent can displace the presumption in favor of the holder on the scale of preponderance of probabilities and the lack of consideration or a legally enforceable debt, need not to be proved to the hilt. In the instant petition, the appellant had simply alleged that the accused-respondent had borrowed a friendly loan for a sum of Rs. 3,50,000/-. Further, the appellant has failed to prove anything in writing, details of any kind of monetary at any point of time and therefore, the relationship between the accused-respondent and the appellant has not at all been proved on the record. Rather, the appellant is clearly silent about the fact that what kind of relationship the appellant have with the accused-respondent.

7. Since the said material fact has not been proved, the benefit of the same absolutely goes to the accused-respondent.

8. Therefore, in my opinion, from the perusal of the file, it is abundantly clear that the accused-respondent succeeded in rebutting the presumption of legal liability wherein on one hand the appellant had deposed that he had lended the money to the accused-respondent on 10.09.2017 whereas on the other hand the averment of lending money to the accused-respondent in the month of January 2017, takes the case towards doubting the sanctity of the appellant’s version and thus creating doubt in the mind of the court regarding his truthfulness.

9. Moreover, it is well settled proposition of law that the appellant has to stand on own legs to prove its case beyond shadow of reasonable doubt by proving the essential ingredients of section 138 of the NI Act which in the present case, he has miserably failed to do so.

Anuradha
2024.07.11 23:48
I attest to the accuracy and
integrity of this document

10. In the light of the above, this Court is of the considered view that no fault can be found with the judgment passed by the trial court dated 03.03.2023 and as such the present application under Section 378(4)CrPC is declined and accordingly, having no merit, the appeal also stands dismissed.

(SANDEEP MOUDGIL)
JUDGE

20.02.2024
sham/Anuradha

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

Anuradha
2024.07.11 23:48
I attest to the accuracy and
integrity of this document