

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

CRR-907-2023

DATE OF DECISION:-08.04.2024

Manjit Singh

...Petitioner.

vs.

Jalour Singh and another

...Respondents..

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Gurpreet Singh, Advocate for
Mr. Fatehjeet Singh, Advocate for the petitioner.

Mr. Siddharth Gupta, Advocate for respondent No.1.

Mr. Siddharth Sandhu, AAG, Punjab.

HARKESH MANUJA, J. (Oral)

1. Challenge in the present revision petition is to the judgment dated 02.03.2023 passed by the Court of learned Sessions Judge, Bathinda, whereby an appeal filed against the judgment of conviction and order of sentence dated 22.03.2021 passed by learned Judicial Magistrate Ist Class, Bathinda, stood dismissed, thereby upholding the judgment of conviction and order of sentence passed therein.

2. The facts of the case are that on account of dishonour of cheque bearing No.759750 dated 29.12.2017 of State Bank of Patiala (now merged with State Bank of India), village Ablu (Kothe Chet Singh), District Bathinda, amounting to Rs.10,00,000/-, a complaint under Section 138 of the Negotiable Instruments Act, 1881 (for short, "NI Act) read with Section 142 of the NIA Act and Section 420 IPC, came to be filed at the instance of respondent No.1-complainant against petitioner.

3. On the basis of the evidence recorded, learned Trial Court vide

judgment/order dated 22.03.2021, convicted the petitioner under Section 138 of the NI Act and sentenced him to undergo RI for a period of 01 year & 06 months, besides payment of compensation of Rs.10 lakhs along with interest @9% per annum from the date of issuance of cheque in question till date..

4. Aggrieved thereof, the petitioner filed first appeal before the Court of Sessions Judge, Bathinda, which was dismissed, thereby, upholding the judgment of conviction and order of sentence passed by the trial Court against the petitioner.

5. Impugning the aforementioned judgments, learned counsel for the petitioner submits that the Courts below have failed to appreciate the fact that the respondent-complainant was having no financial capacity to lend such a huge amount of Rs.10 lakhs. He further submits that the cheque book of the petitioner was lost, regarding which, he even got lodged DDR. He also submits that the disputed cheque was misused by the complainant due to personal grudge as the petitioner refused to do his work when he was Sarpanch of Village Kothe Chet Singh.

Learned counsel further submits that even no date, time or place has been mentioned in the complaint, when the said amount was paid to the petitioner by the complainant as in fact, the petitioner did not even issue the cheque in question in discharge of the alleged liability.

6. On the other hand, learned State counsel assisted by learned counsel representing respondent No.1-complainant supported the judgments passed by the Courts below while submitting that the same are absolutely in accordance with the legal proposition applicable to the facts and circumstances of the case in hand and thus, warrant no interference.

7. I have heard learned counsel for the petitioner and gone through the paper book as well as the records.

8. In the present case, the plea of the petitioner was that the complainant was having no financial capacity to lend such a huge amount of loan of Rs.10 lakhs, whereas, the complainant in his cross-examination specifically stated that he owned 04 acres of land and was having annual income of Rs.2,40,000/- from the said land, besides earning from selling buffaloes. In fact, the petitioner failed to rebut the aforesaid, besides it, the petitioner never ever denied the fact that the disputed cheque bear his signatures and was drawn on his bank account.

8.1 As regards the plea that the cheque book was lost regarding which DDR was lodged, the petitioner neither placed on record a copy of the DDR in support thereof nor any police official was ever examined by him, besides it, he also failed to mention any date, month or year when his cheque book was allegedly lost.

8.2 So far as the contention that the disputed cheque was misused by the complainant due to personal grudge as the petitioner refused to do his work when he was Sarpanch of Village Kothe Chet Singh, is concerned, the petitioner was Ex-Sarpanch of village but he failed to examine any person, who could corroborate his version that he never borrowed any amount from the complainant and his cheque was misused by the complainant and in this regard, learned Courts rightly recorded that if the disputed cheque was misused by the complainant, then why no legal action was initiated by the petitioner for the last so many years and if the bonafides of the petitioner were strong & clear then he would have definitely explained his stand by replying to the legal notice Ex. C3 dated 14.02.2018 issued by the

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complainant but he never chose to do so.

9. In view of the discussion made herein-above, finding no illegality or perversity with the concurrent findings of fact recorded by the Courts below which are based on proper appreciation of evidence, there being no overlooking of the material available on record, re-appreciation of the evidence being impermissible, the present revision been devoid of merits is thus dismissed and the prayer made for sentences to run concurrently is also denied.

10. It may be pointed out here that during pendency of present revision, efforts were made between the parties to settle their claims. The matter was even referred to the Mediation and Conciliation Centre of this Court, however, the proceedings could not mature. As an effort of settlement, the petitioner handed over certain amount to respondent No.1-complainant, which shall be adjusted towards the compensation and interest payable thereupon, as awarded by the Courts below.

08.04.2024

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(HARKESH MANUJA)
JUDGE

whether speaking/reasoned: Yes/No
whether reportable: Yes/No