



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

268

CRM-A-233-2021

Date of decision: 15.10.2024

Surinder Singh

...Petitioner

V/s

Ram Dev

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr.Ramesh Kumar Jha, Advocate,
for the applicant-appellant. (Through V.C.)

MANJARI NEHRU KAUL, J. (ORAL)

1. The present appeal has been filed for setting aside the impugned judgment dated 15.01.2020 passed by JMIC Ferozepur, whereby the accused-respondent had been acquitted of the charges in a complaint filed under Sections 138/142 of the Negotiable Instruments Act, 1881 (hereinafter referred to as 'the NI Act')

2. The learned counsel for the complainant (hereinafter referred to as the appellant) contends that the trial Court gravely erred in failing to appreciate the evidence adduced during the trial, thereby rendering the judgment liable to be set aside. It is argued that the accused (hereinafter referred to as the respondent), in collusion with his brother-in-law Amandeep and certain other individuals, intentionally deceived the petitioner by providing false assurances; the respondent, gave an undertaking, and assured the appellant that if a sum of Rs. 1,20,000,00/- was paid to the respondent's brother-in-law, he would secure employment



for certain individuals in the Punjab Police. Acting upon this fraudulent assurance, an amount of Rs. 1,20,000,00/- was given to the respondent's brother-in-law. However, it soon became apparent that no such appointments were secured, and the petitioner realized that a fraud had been committed. Consequently, FIR No. 08, dated January 29, 2016, was registered under Sections 420 and 120-B of the Indian Penal Code (IPC) against the respondent's brother-in-law and other accomplices for the offences of cheating and criminal conspiracy.

3. Following the registration of the FIR, the respondent approached the appellant and proposed a settlement, acknowledging the deceitful conduct. As part of this compromise, an affidavit dated April 05, 2016, was executed by the respondent. In furtherance of this settlement, the respondent issued a cheque dated October 05, 2016, for the sum of ₹1,00,000 in favour of the appellant, ostensibly to discharge his legal liability. However, when the appellant presented the cheque for encashment, it was dishonoured on November 02, 2016, with the bank noting that the respondent's account had been closed. Despite the issuance of a legal notice on November 28, 2016, the respondent failed to remit the cheque amount within the statutory period, leading the appellant to pursue legal action.

4 The counsel for the appellant further argues that the trial Court erred in acquitting the respondent based on the premise that the appellant, while deposing as CW-1, admitted that the amount in question had been paid as a bribe to the respondent for securing employment in the Punjab



Police. The trial Court held that, since the cheque amount represented a bribe, there was no legally enforceable debt or liability under Section 138 of the NI Act. The learned counsel vehemently contends that once the respondent admitted to having taken a bribe and subsequently compromised the matter, it should have been construed as a legally enforceable debt or liability, given the respondent's acknowledgment of receiving the sum. Moreover, the respondent did not dispute the execution of the cheque, nor did he deny his signature or handwriting on the instrument, thus raising a presumption that the cheque was issued to discharge a legally enforceable debt.

5. I have heard learned counsel for the parties and have perused the relevant material placed on record.

6. Upon careful examination of the evidence and the submissions made by the parties, it is pertinent to note that the appellant himself unequivocally admitted during his cross-examination before the trial Court that the cheque amount was paid as a bribe to the respondent for securing Government employment in the Punjab Police by certain job aspirants. Given this admission, it is imperative to clarify that the cheque amount cannot, under any circumstances, be deemed to have been issued in discharge of a legally enforceable debt or liability.

7. Under Section 138 of the NI Act, the mere issuance of a cheque does not constitute an offence unless it is proven that the cheque was issued for the discharge of a debt or liability that is legally enforceable.

It is well-settled law that any debt or liability arising from a contract or



promise that is unlawful, immoral, or not legally enforceable does not attract the provisions of Section 138 of the Act. A payment made as a bribe, being an illegal and immoral transaction, does not constitute a legally enforceable liability. Thus, the learned trial Court correctly concluded that no legally enforceable debt existed in this case, and the cheque issued in furtherance of an unlawful act cannot give rise to criminal liability under the Negotiable Instruments Act.

8. In view of the foregoing, the findings of the learned trial Court cannot be deemed perverse. Rather, they are in consonance with the settled principles of law governing the enforcement of negotiable instruments. The trial Court was right in acquitting the respondent, as the cheque amount did not represent a legally enforceable debt or liability, and therefore, no offence under Section 138 of the NI Act was made out.

9. Accordingly, the instant petition is dismissed.

October 15, 2024
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(MANJARI NEHRU KAUL)
JUDGE

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