

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-964-2022 (O&M)
Date of decision: 29.02.2024

Shamsher Singh

....Petitioner

Versus

Dayal Singh &anr.

....Respondents

CORAM: HON’BLE MR. JUSTICE PANKAJ JAIN

Present:- Mr. Maan Akashdeep Singh, Advocate for
Mr. Shubham Kaushik, Advocate
for the petitioner.

Mr. Rajinder Goel, Advocate
for respondent No.1

Mr. Ashok Kumar Sehrawat, DAG, Haryana.

PANKAJ JAIN, J.(ORAL)

1 Challenge is to the order dated 07.04.2022 passed by Additional Sessions Judge, Kukukshetra affirming the judgment of conviction passed by Judicial Magistrate 1st Class, Kurukshetra dated 09.10.2017 whereby the petitioner stands convicted of offence punishable under Section 138 of the Negotiable Instruments Act, 1881 (for short NI Act) and stands sentenced as under :-

Shamsher Singh	138 of NI Act	RI for a period of 1 year. The convict is further directed to pay a sum of Rs.15,00,000/- i.e. the cheque amount as compensation to the complainant under Section 357(3) Cr.P.C. and in default of payment of compensation shall further undergo SI for a period of 3 months.
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2 The complaint was preferred against the petitioner for offence punishable under Section 138 of the NI Act after cheque bearing No.754950 dated 18.09.2015 issued by him for an amount of Rs.15.00 lacs was dishonored for insufficient funds when presented to the Banker of the petitioner on 03.10.2015.

3 During course of trial the signatures on the cheque leaf were admitted, however, the defence raised was that the body of the impugned cheque was filled by the accused in his own handwriting and thus it was a case where blank cheque has been misused. Trial Court after analyzing the evidence came to the conclusion that once the petitioner admitted signatures on cheque leaf onus shifted upon him to show how and under what circumstances he issued the impugned cheque in favour of the complainant. As per the statement of the complainant he negated the stand of the accused and in his cross examination specifically deposed that it is the accused himself who filled the name, date and amount in the impugned cheque. However, no evidence was led by the accused to prove his defence.

4 The exercise of revisional jurisdiction in such case is limited. As per settled law, it is beyond the scope of the revisional Court to reanalyze and reinterpret the evidence on record.

5 On being asked as to what is the glaring error of law that would warrant exercise of revisional jurisdiction at the hands of this Court, learned counsel for the complainant could not point out any. The best case that can be made out on behalf of the accused is believing his stand that a blank cheque was filled by the complainant. The issue is : Can that stand negate

the case of the complainant? The said issue stands answered by Supreme Court in ***Bir Singh Vs. Mukesh Kumar 2019(4) SCC 197*** observing as under :-

42. In the absence of any finding that the cheque in question was not signed by the respondent-accused or not voluntarily made over to the payee and in the absence of any evidence with regard to the circumstances in which a blank signed cheque had been given to the appellant-complainant, it may reasonably be presumed that the cheque was filled in by the appellant-complainant being the payee in the presence of the respondent-accused being the drawer, at his request and/or with his acquiescence. The subsequent filling in of an unfilled signed cheque is not an alteration. There was no change in the amount of the cheque, its date or the name of the payee. The High Court ought not to have acquitted the respondent-accused of the charge under [Section 138](#) of the Negotiable Instruments Act.

43. In our considered opinion, the High Court patently erred in holding that the burden was on the appellant-complainant to prove that he had advanced the loan and the blank signed cheque was given to him in repayment of the same. The finding of the High Court that the case of the appellant-complainant became highly doubtful or not beyond reasonable doubt is patently erroneous for the reasons discussed above.”

6 In view of above, this Court does not find any reason to interfere in well reasoned judgments passed by the Courts below as nothing has been shown to infer that the view taken by the Courts below can be said to be erroneous.

7 Resultantly, the present criminal revision stands dismissed.

8 Pending miscellaneous application(s), if any, shall also stand disposed off.

29.02.2024

Pooja Sharma-I

(PANKAJ JAIN)

JUDGE

Whether speaking/reasoned:

Whether reportable:

Yes/No

Yes/No