

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

110.

CRR No.1251 of 2023 (O&M)

Date of Decision:24.01.2024

Deepak Jangra

... Petitioner

Versus

Virender Kumar and another

... Respondents

CORAM : HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Sandeep Kotra, Advocate
for the petitioner.

Mr. Subhash Godara, Addl. A.G., Punjab.

HARPREET SINGH BRAR, J. (ORAL)

1. The present revision petition has been preferred by the petitioner against the impugned judgment dated 16.03.2023 passed by the learned Additional Sessions Judge, Kaithal whereby the judgment of conviction dated 14.06.2016 and order on quantum of sentence dated 15.06.2016 passed by the learned Judicial Magistrate 1st Class, Kaithal has been upheld.

2. In brief, the facts are that on 01.05.2011, the petitioner herein borrowed an amount of ₹2 lakhs from respondent No.1-complainant at Kaithal with the promise to return the same along with an interest @1.5% per month and in this regard, pronote and receipt dated 01.05.2011 were duly executed. In discharge of his legally enforceable liability, the petitioner issued a cheque bearing No.229328 dated 01.10.2012 of Canara Bank, Kaithal for a sum of ₹2,51,000/-. When the said cheque was presented by the complainant for encashment, it was returned with remarks 'funds insufficient'. The

complainant sent a registered notice dated 19.10.2012 to the petitioner asking him to make the payment of the cheque amount, which he failed to do. It is in this backdrop, complaint under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter referred to as NI Act) was filed by the complainant in which the petitioner was convicted by the learned Judicial Magistrate 1st Class, Kaithal vide judgment dated 14.06.2016 and sentenced to undergo simple imprisonment for a period of six months and pay cheque amount with interest 9% from the date of filing of the complaint till its realization as compensation vide order dated 15.06.2016. The appeal preferred by the petitioner against the aforesaid judgment and order of sentence was also dismissed vide judgment dated 16.03.2023. Aggrieved against the same, petitioner preferred the present revision petition.

3. Learned counsel appearing for the petitioner *inter alia* contends that both the Courts below have failed to appreciate the fact that the complainant miserably failed to prove on record his capacity to offer a loan of ₹2 lakhs to the petitioner. Even the veracity of the pronote was not verified. In fact, brother-in-law of the complainant namely Ram Richpal used to visit the house of the petitioner and taking advantage of same, he induced the sister of the petitioner and an FIR under Section 376, 366 was lodged against him at Police Station City, Kaithal. During the course of trial, a compromise was effected between the parties in terms of money and in lieu thereof, blank signed promote, receipt and cheque in question was taken by the family of Ram Richpal. Later on, the compromise failed and the said blank cheque and pronote were misused to falsely implicate the petitioner. The blank cheque given by the petitioner to the complainant was filled up by the brother of the complainant namely Rakesh @ Pinku and not by the petitioner. It is further

contended that demand notice sent by the complainant was never served upon the petitioner. Therefore, the judgments passed by both the Courts below are liable to be set aside.

4. Learned State counsel furnishes the custody certificate, which is taken on record.

5. Having heard learned counsel for the petitioner and after perusing the record of the case, it transpires that after the complainant was successful in drawing the presumptions under Section 118 and 139 of the NI Act in his favour, the petitioner could not rebut the same. The complainant and his brother in their testimonies have categorically stated that the complainant received the lease money qua his agricultural land, out of which he advanced loan of ₹2 lakhs to the petitioner. Not only the cheque in question Ex.C2 but the pronote Ex.CW5/A and receipt Ex.CW5/B bore signatures of the petitioner and the same were duly proved by testimonies of the complainant and his brother CW5. The petitioner miserably failed to controvert the said evidence. It is also admitted fact that the cheque issued by the petitioner was dishonoured due to insufficient funds. The argument raised by the counsel for the petitioner that the demand notice was never served upon the petitioner has no force, as the demand notice was sent on the same address as was mentioned in the complaint, on which address, he was duly served. Furthermore, registered AD Ex.C6 bore the signatures of the petitioner.

6. In view of the aforesaid facts and circumstances, this Court does not find any merit in the revision petition preferred by the petitioner. The judgment dated 16.03.2023 passed by the learned Additional Sessions Judge, Kaithal upholding the judgment of conviction dated 14.06.2016 and order of

sentence dated 15.06.2016 passed by the learned Judicial Magistrate 1st Class,
Kaithal is upheld and the revision petition stands dismissed.

(HARPREET SINGH BRAR)
JUDGE

January 24, 2024
Pankaj*

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