IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-26510-2019
Reserved on 26.09.2024
Date of decision: 01.10.2024

Bhim Singh ...Petitioner

Versus

Reliance Commercial Finance Limited ...Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Argued by: Ms. Vaishali Kamboj, Advocate for
Mr. R.S. Budhwal, Advocate for the petitioner.

Mr. Nakul Sharma, Advocate for the respondent.

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KARAMJIT SINGH, J. (ORAL)

1. The present petition has been filed by the petitioner/accused under Section 482 Cr.P.C for quashing of the order dated 28.05.2019 Annexure P-6 passed by the Court of Judicial Magistrate Ist Class, Karnal in a criminal complaint No.3577/2016 titled Reliance Capital Limited Vs. Bhim Singh and another under Section 138 NI Act vide which the application Annexure P-5 filed by the petitioner seeking permission of the Court to get the signatures of the petitioner on addendum to the loan agreement dated 11.03.2015 Annexure P-4 and loan application form dated 11.02.2015 Annexure P-3, compared with the standard specimen signature of the petitioner and to examine the hand writing expert in defence evidence.

2. The brief facts of the case are that respondent/complainant Reliance Finance Limited filed aforesaid criminal complaint under Section

138/142 NI Act against the petitioner, alleging that petitioner and Reena Verma (co-borrower) approached the complainant to get loan for business expansion. Petitioner being principle borrower and Reena Verma submitted loan application dated 11.02.2015. The loan worth Rs.35.5 lacs was sanctioned and petitioner and co-borrower executed loan agreement dated 11.03.2015 and addendum to loan agreement dated 11.03.2015. The loan was availed by the petitioner and subsequently, in partial discharge of his legal liability petitioner issued cheque No.003376 dated 04.10.2016 for Rs.1,65,360/- in favour of the complainant from his bank account in Union Bank of India, Nibri Branch, Karnal. On presentation, the said cheque was dishonored with remarks 'funds insufficient' vide memo dated 06.10.2016. On completion of statutory formalities, the complainant filed aforesaid complaint against the petitioner wherein the petitioner was summoned on completion of preliminary evidence. The notice of accusation was served, to which petitioner pleaded not guilty. Then complainant led his evidence and thereafter, petitioner was examined under Section 313 Cr.P.C. At the stage of defence evidence, petitioner moved the aforesaid application Annexure P-5 for comparison of the disputed signatures of petitioner on Annexure P-3 and P-4 with his admitted signatures. The said application was dismissed by the learned trial Court vide impugned order Annexure P-6. Being aggrieved, the petitioner was filed the present petition.

3. Notice of the petition was issued to the respondent. The respondent appeared through its counsel.

4. I have heard the counsel for the parties.

5. During arguments, the counsel for the petitioner has not

disputed the fact that loan of Rs.35.5 lacs was availed by the petitioner. The counsel for the petitioner has admitted that loan application Annexure P-3 is bearing photograph of the petitioner. The counsel for the petitioner has also admitted that repayment of some part of loan is still due. However, the counsel for the petitioner submits that after the submission of loan documents, the officials of the complainant forged certain pages of the said documents. That in order to establish the said fact, the petitioner moved an application to get compared the disputed signatures of the petitioner on Annexure P-3 and P-4 with his admitted signatures. It is further submitted that such comparison of signatures is necessary for the just decision of the criminal complaint. It is further submitted that the impugned order Annexure P-6 passed by the trial Court is not sustainable and deserves to be set aside.

6. On the other hand, counsel for the respondent submitted that there is no denial on the part of the petitioner that he availed loan worth Rs.35.5 lacs from the complainant and later on made part payment of said loan. It has been further submitted that the petitioner has not denied his signatures on cheque in question, which was dishonored. It has been further submitted that the trial Court rightly dismissed the application filed by the petitioner seeking comparison of his signatures on Annexure P-3 and P-4 with his admitted signatures.

7. I have considered the submissions made by counsel for the parties.

8. Section 138 NI Act reads as follows:-

"[Where any cheque drawn by a person on an account maintained by him with a banker for payment of any amount of money to another person from out of that account for the discharge, in whole or in part, of any debt or other liability, is returned by the bank unpaid, either because of the amount of money standing to the credit of that account is insufficient to honour the cheque or that it exceeds the amount arranged to be paid from that account by an agreement made with that bank, such person shall be deemed to have committed an offence and shall, without prejudice to any other provision of this Act, be punished with imprisonment for 2[a term which may be extended to two years], or with fine which may extend to twice the amount of the cheque, or with both:

Provided that nothing contained in this section shall apply unless--

(a) the cheque has been presented to the bank within a period of six months from the date on which it is drawn or within the period of its validity, whichever is earlier;

(b) the payee or the holder in due course of the cheque, as the case may be, makes a demand for the payment of the said amount of money by giving a notice; in writing, to the drawer of the cheque, 3[within thirty days] of the receipt of information by him from the bank regarding the return of the cheque as unpaid; and

(c) the drawer of such cheque fails to make the payment of the said amount of money to the payee or, as the case may be, to the holder in due course of the cheque, within fifteen days of the receipt of the said notice.

Explanation.-- For the purposes of this section, debt of other liability means a legally enforceable debt or other liability."

9. In the instant case, counsel for the petitioner has not disputed the fact regarding availing of loan by the petitioner from the respondent and regarding submission of loan documents and the fact of issuance of cheque in question in the name of the complainant with regard to amount standing due and petitioner has impliedly admitted his signatures on the said cheque. In the given circumstances, the learned trial Court rightly observed that it does not find any necessity to examine the signatures of the petitioner on the loan documents with his admitted standard signatures. The same is not going to serve any purpose, the reason being the petitioner has not disputed his legal liability to repay the loan and is not disputing his signatures on the cheque in question.

10. In light of the above, no ground is made out to interfere in the impugned order Annexure P-6 dated 28.05.2019 passed by the trial Court.

11. Consequently, the present petition is hereby dismissed being devoid of merits. The parties are directed to appear before the trial Court on the date already fixed in the trial.

12. However, it is made clear that any observation made herein above is not to be construed as an expression of opinion on the merits of the case.

01.10.2024 **(KARAMJIT SINGH)**
Yogesh **JUDGE**

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