



240+292 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision: 27.02.2025

1.

CRM-A-54-2025

REKHA (SINCE DECEASED) THROUGH LEGAL HEIRS

...APPLICANT

V/S

KULDEEP SINGH

...RESPONDENT
2.

CRM-A-58-2025

REKHA (SINCE DECEASED) THROUGH LEGAL HEIRS

...APPLICANT

V/S

KULDEEP SINGH

...RESPONDENT
3.

CRM-A-59-2025

REKHA (SINCE DECEASED) THROUGH LEGAL HEIRS

...APPLICANT

V/S

KULDEEP SINGH

...RESPONDENT
4.

CRM-A-69-2025

REKHA (SINCE DECEASED) THROUGH LEGAL HEIRS

...APPLICANT

V/S

KULDEEP SINGH

...RESPONDENT
5.

CRM-A-71-2025



REKHA (SINCE DECEASED) THROUGH LEGAL HEIRS
...APPLICANT

V/S

KULDEEP SINGH
...RESPONDENT

6. CRM-A-75-2025

REKHA (SINCE DECEASED) THROUGH LEGAL HEIRS
...APPLICANT

V/S

KULDEEP SINGH
...RESPONDENT

7. CRM-A-81-2025

REKHA (SINCE DECEASED) THROUGH LEGAL HEIRS
...APPLICANT

V/S

KULDEEP SINGH
...RESPONDENT

8. CRM-A-84-2025

REKHA (SINCE DECEASED) THROUGH LEGAL HEIRS
...APPLICANT

V/S

KULDEEP SINGH
...RESPONDENT

9. CRM-A-96-2025

REKHA (SINCE DECEASED) THROUGH LEGAL HEIRS
...APPLICANT

V/S

KULDEEP SINGH



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...RESPONDENT

10.

CRM-A-145-2025

REKHA (SINCE DECEASED) THROUGH LEGAL HEIRS

...APPLICANT

V/S

KULDEEP SINGH

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Khushdeep Mann, Advocate;
Ms. Arshdeep Kaur, Advocate;
Mr. R.S. Bagga, Advocate and
Mr. Rahul Jaswal, Advocate
for the applicant(s).

HARPREET SINGH BRAR, J. (ORAL)

1. This common order of mine shall dispose of all the above mentioned applications as all are arising out of the same cause. For the sake of brevity, facts are borrowed from **CRM-A-54-2025** titled as '***Rekha (Since Deceased) Through Legal Heirs vs. Kuldeep Singh***'.
2. The present application is preferred against the judgment of acquittal dated 21.11.2024 passed by learned Sub Divisional Judicial Magistrate, Samalkha at Panipat in a complaint filed under Section 138 read with Section 142 of Negotiable Instruments Act.
3. Brief facts of the present case are that being co-villager of the complainant, accused (respondent herein in all cases) had good relations with her family since long and having visiting terms with each other. Accused being a transporter was running his business in the name and style of Raunak Transport, at Gharaunda, Karnal besides running the business of poultry farm.



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Accused used to borrow money from the complainant and her husband, as and when required. In the third week of March 17, accused borrowed a sum of Rs.4 lac from the complainant, which she gave to him. Thereafter, in the 4th week of May 2017, on account of loss in poultry farm business of accused, he again borrowed money of Rs.6 lac from the complainant, which was arranged from one relative Sh. Sunil son of Sh. Dharampal as it was given to said Sunil in 2015 for construction of his house. Again in the first week of September, 2017 accused borrowed an amount of Rs.4.5 lac from the complainant which was taken from said Sunil. In the second week of September 2017, amount of Rs.3 lac was again borrowed from the complainant, which was also taken from said Sunil. In the 4th week of September, 2017, accused again borrowed amount of Rs.2 lac. In the 4th week of April 2018, accused visited the complainant and told her to repay the entire amount by selling his property and on its inducement, he again borrowed the amount of Rs.7 lac for making payment of the installment of his trucks. This payment was given to him by selling her house situated within the 'lal dora' of village Manana to Sh. Sukhbir son of Bhim Singh. Consequentially, accused had borrowed a total sum of Rs.27,50,000/- from her but he failed to repay the entire amount but on 05.07.2018, returned the amount of Rs.50,000/- by transferring the same in the bank account of the complainant. On the persistent demand of complainant, accused issued 12 post-dated cheques (some cheques drawn from his personal account, whereas some were drawn from joint account with his wife and son) for payment of remaining amount bearing cheque Nos.049034 dated 01.02.2019 for amount of Rs.3 lac having account No.3670957747, 049027 dated 26.10.2018 for amount of Rs.3 lac having account No.2012634600,



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049025 dated 15.09.2018 for amount of Rs.50,000/- having account No.3670957747, 049023 dated 01.08.2018 for amount of Rs.50,000/- having account No.3670957747, 049024 dated 15.08.2018 for amount of Rs.50,000/- having account No.3670957747, 049035 dated 01.03.2019 for amount of Rs.3 lac having account No.3670957747, 049033 dated 01.01.2019 for amount of Rs.3 lac having account No.3670957747, 049028 dated 01.11.2018 for amount of Rs.3 lac having account No.3670957747, 049022 dated 01.09.2018 for amount of Rs.50,000/- having account No.3670957747 and 018044 dated 20.10.2018 for amount of Rs.3 lac having account No.2012634600 all drawn on Central Bank of India, Railway Road, Samalkha. Some cheques were pre-filled and some were filled by accused for various further dates. All the cheques, on presentation got dishonored vide memos of different dates with remarks "account closed" and "funds insufficient". Thereupon, a legal notice dated 06.03.2019 was issued to the accused requesting him to make the payment of the said cheque within 15 days of its receipt, but he failed to make the payment. Hence, this complaint.

4. Having heard the learned counsel for the applicant and after perusing the record of the case with his able assistance, it transpires that complainant-Rekha (since deceased) was never examined after the appearance of the respondent/accused. Further, the GPA (General Power of attorney) of the complainant never came into light at any point of time and he did not lead any evidence to prove that GPA in accordance with law and there is no justified reason for not producing GPA and that was the very basis of his authority to appear in the present case. Moreover, he alleged that remaining LRs have authorized him by virtue of GPA bearing No.59 dated 12.01.2022 to



contest the present complaint. However, neither any pedigree table showing the details of LR of deceased Rekha has been produced nor any such LRs have been examined by him at any point of time, which means that the present complainant i.e. Sukhbir has failed to prove the authority or his legal capacity to proceed further with the present complaint. Moreover, deceased Rekha did not mention in the complaint that amount of Rs.27,50,000/- was given to the accused, at any point of time in the presence of present complainant Sukhbir. Further, the complainant-Rekha specifically mentioned in the complaint that she arranged an amount of Rs.14,50,000/- from Sunil. Though Rekha has died during the pendency of the case but Sunil was a material witness in the present case, who was never examined at any point of time. As such, best evidence was withheld by the present complainant and the prosecution has failed to prove its case beyond the shadow of reasonable doubt. As a result, the evidence led by the applicant(s)/complainant(s) does not inspire confidence of this Court.

5. The power of the Appellate Court to unsettle the order of acquittal on the basis of re-appreciation of the evidence is subject to the settled law that where two views are possible and out of the two, one points towards the innocence of the accused, the view which favours the accused should prevail over the other pointing towards his guilt. Furthermore, the trial Court has the additional advantage of closely observing the prosecution witnesses and their demeanour, while deciding about the reliability of the version of prosecution witnesses. (See *H.D. Sundara and others vs. State of Karnataka, Criminal Appeal No.247 of 2011 decided on 26.09.2023*; *Kali Ram vs. State of H.P., 1973 (2) SCC 808 and Chandrappa and others vs. State of*



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Karnataka, (2007) 4 SCC 415). A Division bench of this Court in the judgment passed in *State of Haryana vs. Ankit and others* passed in *CRM-A No.3 of 2022* decided on 06.07.2023 has held that presumption of innocence further gets entrenched on the acquittal of accused by the trial Court.

6. In view of the facts and circumstances of the case, this Court finds that learned counsel for the applicant(s) has failed to point out any perversity or illegality in findings recorded by the learned trial Court which warrants interference by this Court. As such, there is no merit in the present application(s) and hence, the leave to appeals are denied.

7. A photocopy of this order be placed on the file of other connected cases.

February 27, 2025
manisha

(HARPREET SINGH BRAR)
JUDGE

(i)	Whether speaking/reasoned	Yes/No
(ii)	Whether reportable	Yes/No