



CRM-A-252-2023 and four other cases

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

1.

**CRM-A-252-2023 (O&M)
Date of Decision: 21.01.2025**

GURNAM SINGH

...APPLICANT

Versus

JATINDERJIT KAUR

...RESPONDENT

2.

**CRM-A-285-2023 (O&M)
Date of Decision: 21.01.2025**

GURNAM SINGH

...APPLICANT

Versus

JATINDERJIT KAUR

...RESPONDENT

3.

**CRM-A-311-2023 (O&M)
Date of Decision: 21.01.2025**

GURNAM SINGH

...APPLICANT

Versus

JATINDERJIT KAUR

...RESPONDENT

4.

**CRM-A-356-2023 (O&M)
Date of Decision: 21.01.2025**

GURNAM SINGH

...APPLICANT

Versus

TARANVIR KAUR

...RESPONDENT

5.

**CRM-A-368-2023 (O&M)
Date of Decision: 21.01.2025**

GURNAM SINGH

...APPLICANT

Versus

JATINDERJIT KAUR

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

**Present: Mr. Sandeep Arora, Advocate
for the applicant(s).**

**CRM-A-252-2023 and four other cases****2****Harpreet Singh Brar, J. (Oral)**

1. These applications are preferred under Section 378(4) of the Cr.P.C. against the judgments of acquittal dated 09.12.2022 (four cases) and 13.12.2022 (CRM-A-356-2023) passed by learned Judicial Magistrate Ist Class, Jalandhar in complaint cases bearing No. NACT/442, NACT/441, NACT/1734, NACT/1325 of 2019 and NACT/5896 of 2018 under Section 138 of Negotiable Instruments Act.

2. As similar prayer has been made in all these cases, therefore, all these leave to appeals are decided by this common order.

3. Brief facts as averred in the complaints are that accused-respondent(s) took five separate loans of Rs. 9,00,000/-, Rs. 9,00,000/-, Rs. 9,00,000/-, Rs.4,00,000/- and Rs. 9,00,000/- respectively from complainant and in order to discharge legal liability, accused-respondent(s) issued five cheques bearing No. (i) 000118 dated 05.12.2018 for a sum of Rs. 2,00,000/- drawn on Kotak Mahinder Bank, (ii) 000117 dated 05.11.2018 for a sum of Rs. 2,00,000/- drawn on Kotak Mahinder Bank Jalandhar (iii) 000120 dated 05.02.2019 for a sum of Rs. 1,80,000/- drawn on Kotak Mahinder Bank Jalandhar (iv) 00010 dated 06.09.2018 for a sum of Rs. 4,00,000/- drawn on HDFC Bank GT Road, Jalandhar and (v) 000119 dated 05.01.2019 for a sum of Rs. 2,00,000/- drawn on Kotak Mahinder Bank Jalandhar in favour of complainant(s) with an assurance that the same would be encashed as and when presented to the banker of the accused for encashment.

Complainant presented the said cheques for encashment through his banker but these were dishonoured by the banker of accused-respondents vide different memos dated 12.12.2018, 20.11.2018, 20.12.2018, 20.02.2019,

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Blocked/Account Dormant". Thereafter legal notices were sent through registered post, accused was called upon make the payment within the prescribed period of 15 days from the receipt of notice but accused failed to pay the same. Hence, present complaint.

4. Having heard the learned counsel for the applicant(s) and after perusing the record of the case with his able assistance, it transpires that learned Court below has opined that (i) the payment was made to the accused in presence of Tarun Kumar, then it was beyond comprehension as to why complainant did not even file an application to summon Mr. Taran Kumar to depose in his favour regarding the alleged advancement of Rs. 9 lakh to the accused. (ii) Secondly, in his cross-examination complainant stated that he had paid the amount to accused by cheque. However, he failed to brought on record any of his bank account statement reflecting the payment of Rs. 9 lakh to the accused through cheque.(iii) Thirdly, the complainant also stated that he had executed a writing on the date of making payment to the accused. But that writing was also not brought on record by the complainant. (iv) Fourthly, the entire cross-examination of the complainant reflects that complainant is taking contradictory stands and stating about the facts which seems to be existing only in his imagination and case of the applicant was found to be suffering from fatal infirmities so much so that it goes directly to the root of the cases and shakes the very foundation on which the complainant(s) cases are placed. Learned Court below further rightly opined that complainant(s) had miserably failed to prove that the cheques in question were issued against the discharge of any enforceable debt or liability. Moreover, the complainant(s) failed to bring on record a document to explain the sources of the funds. Learned counsel further concluded that complainant(s) had miserably failed to show that he was having the required

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financial capacity to lend such a huge amount and thus, the presumption under Section 139 of Negotiable Instruments Act did not arise at all.

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 v. State of H.P., 1973 (2) SCC 808** and **Chandrappa and others v. State of Karnataka, (2007) 4 SCC 415**). A Division bench of this Court in the judgment passed in **State of Haryana Vs. Ankit and others** passed 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-appellant(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 applications and hence, the leave to appeal(s) are denied.

7. Pending miscellaneous application(s), if any, shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

21.01.2025*Ajay Goswami*

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>