

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-A No.926-MA of 2015 (O&M)
Date of Decision: 15.04.2024

Ramanpreet

..... Applicant/Appellant

Versus

Tek Chand

..... Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present:- None for the applicant/appellant.

MAHABIR SINGH SINDHU, J.

Present application has been filed under Section 378 (4) Cr.P.C. seeking leave to appeal against the impugned judgment dated 01.04.2015, passed by learned Judicial Magistrate 1st Class, Chandigarh (*for short 'JMIC'*), vide which respondent has been acquitted from the allegations leveled against him.

(2) It transpires that a complaint under Section 138 of the Negotiable Instruments Act, 1881 was filed against the respondent regarding cheque No.301818 dated 15.09.2011 for an amount of Rs.4,01,250/-, which was dishonoured. Learned JMIC after taking into consideration the material available on record framed two points for consideration, which are as under:-

1. *Whether accused issued cheque in question for repayment of friendly loan of Rs.4,00,000/- with interest?*
2. *Whether accused is guilty for commission of offence punishable under Section 138 of N.I. Act?*

(3) While dealing with point No.1 in para 16 of the impugned judgment, learned JMIC observed as under:-

“xxxxxx

The accused, in order to rebut that presumption, need to raise a probable defence and to substantiate the same on the touchstone of preponderance of probabilities. In instant case, accused has raised a specific defence, which is successfully substantiated to the satisfaction of an ordinary prudent person. In the facts and circumstances of present case, any man of common prudence is bound to act on the supposition that accused never took a loan of ₹ 4,00,000/- from complainant and further that the cheque was not drawn by accused for an amount of ₹ 4,01,250/- for repayment of friendly loan. The accused has raised serious doubts on the prosecution story, which have remained unanswered on the part of complainant. First point of determination is accordingly answered in favour of accused and against complainant.”

(4) In view of the aforesaid opinion on point No.1, point No.2 was decided against the complainant.

(5) Case called twice, but no one is appearing on behalf of the applicant/appellant.

(6) In view of the above, it seems that applicant/appellant is not interested in pursuing the present matter.

(7) As a result thereof, there is no option except to dismiss the application seeking leave to appeal for non-prosecution.

- (8)Ordered accordingly.
- (9)Pending application(s), if any, shall also stand disposed off.

15th April, 2024
Gagan

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No