IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
(272)

CRM-M-875-2018 (O & M)
Date of decision: 22.07.2025

Ram Karan

…... Petitioner(s)

V/s

Vijay Kumar and ors. ...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. G.C. Shahpuri, Advocate,
for the petitioner.

Mr. Kamal Sharma, Advocate and
Mr. Raja Sharma, Advocate,
for respondent No.3.

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<u>JASJIT SINGH BEDI, J. (Oral)</u>

The prayer in the present petition under Section 482 Cr.P.C. is for quashing of order dated 02.05.2015 (Annexure P-2) passed by the Judicial Magistrate Ist Class, Yamuna Nagar at Jagadhri whereby the complaint bearing No.0001622/2014 dated 05.12.2023 titled as Ram Karan versus Vijay Kumar under Sections 406/420/467/468/471/506 and 120-B IPC came to be dismissed and the order dated 15.09.2016 (Annexure P-4) passed by the Additional Sessions Judge, Yamuna Nagar at Jagadhri whereby the revision petition filed by the petitioner has also been dismissed.

2. The brief facts of the case are that the mother of the complainant took a loan of Rs.11 lakhs from DPCARD Bank Ltd. after mortgaging her land, for the repayment of which the complainant gave 10 blank cheques

bearing No.477171 to 477180 to the bank officials as security in the year 2008. The said amount of loan was re-paid and the bank issued a 'No due certificate', upon which the entry in the revenue record regarding the mortgage of the land was deleted and again the bank gave loans to the mother of the complainant by mortgaging her land. It was alleged that the bank officials, i.e. respondent no.2 and 3 misused cheque No.477171, gave the same to accused No.1, who upon dishonour of said cheque, upon presentation for encashment, filed a complaint at the District Court, Kurukshetra, against the complainant. Several complaints were also made to the police for taking necessary action against the accused persons, but to no effect. Therefore, the complaint had been filed.

3. The complainant produced evidence in support of his complaint. Report under Section 202 of Cr.PC was also called by the court and after going through the evidence produced by the complainant and considering the report under Section 202 Cr.P.C., the complaint was dismissed. The trial court while dismissing the complaint on 02.05.2015 observed that complainant did not produce on record the clearance certificate allegedly issued by the bank. The complainant did not call any witness from the concerned bank to prima-facie show that indeed ten cheques were given to the said bank and out of those cheques some cheques were presented in the bank for encashment and that when the said cheques were not honoured, the complaint was filed. It was also observed that in the report under Section 202 of Cr.P.C., it was stated that deletion of the entry, regarding the name of the complainant and his mother was on account of a

forged loan clearance certificate presented to the revenue authorities and that upon the cheques presented by the complainant, the stamp of the bank was available, which was not available on the cheque used by the respondent no. 1. It was observed by the Trial Court that it appeared that in order to put pressure upon the bank, which had already started recovery proceedings upon non-payment of the loan amount, the complaint had been filed.

4. The revision petition filed against the aforesaid order dated 02.05.2015 came to be dismissed vide order dated 15.09.2016 passed by the Additional Sessions Judge, Yamuna Nagar at Jagadhri.

5. The aforementioned orders are under challenge in the present petition.

6. The learned counsel for the petitioner-complainant contends that at the stage of passing of a summoning order only a *prima facie* case is to be seen which stands established from the material on record. Apparently, the cheques were issued as security cheques one of which was misused by the accused and no criminal liability could be fastened upon the petitioner-complainant on the basis of the dishonour of the said cheque so as to entail his prosecution under Section 138 of the Negotiable Instruments Act, 1881. It was apparent that the accused persons had committed the offence in question. In fact, the loan amount already stood returned and the mortgage was redeemed. He, thus, contends that the impugned orders are liable to be quashed and the respondents be summoned for the offences in question.

7. The learned counsel for respondent No.3 contends that the petitioner-complainant could not prove the entrustment of cheque

No.477171 to 477180 to respondents No.2 and 3 and therefore, the question of offence under Section 406 IPC does not arise. There is absolutely no evidence that the loan amount had been returned and the 'No Due Certificate' purportedly issued by the bank is a forgery at the instance of the petitioner-complainant. The said forged 'No Due Certificate' was used to get deleted the entry concerning the mortgage in the revenue record. Therefore, the present petition is liable to be dismissed.

8. I have heard the learned counsel for the parties.

9. As per Ex.C-24, the land of Jiwni Devi, falling in khasra No.27/23(3-0), was mortgaged with PARDB, Radaur for a loan of an amount of Rs.55,000/-. The land of Jiwni Devi falling in khasra No.32//1/1, 10/2, 11, 33//5, measuring 21 kanal 12 marla, was also mortgaged with PARDB against loan amount of Rs.400000/-. Other parcels of land were also mortgaged with the bank and loans were given to Jiwni.

10. In the report under Section 202 of Cr.P.C,.it was stated that in the year 2008, Shiv Nandan Sharma, LVO and Umed Singh, Manager, were not posted in the bank and Shanti Parkash was the Manager and Raj Kumar was LVO in the said bank. Therefore, the fact regarding the entrustment of cheques to accused no.2 and 3 could not be proved.

11. The record of bank was not produced to prove the handing over of cheque No.477171 to 477180 to respondents No.2 and 3. It has also not been established that the record of this case remained with these persons, when the cheque in question, allegedly entrusted to the bank officials, was misappropriated. As per report under Section 202 of Cr.P.C. the loan

clearance certificate was forged. Thus, the offences are clearly not established.

12. Proceedings under Section 138 of the Negotiable Instruments Act, 1881 were initiated against Ram Karan for the dishonour of cheque No. 477171 dated 01.07.2013 and he came to be convicted vide judgment dated 01.11.2017 passed by the Judicial Magistrate Ist Class, Kurukshetra.

14. In view of the above, I find no merit in the present petition and the same stands dismissed.

July 22, 2025 **(JASJIT SINGH BEDI)**
sukhpreet **JUDGE**

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