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

CRR-1388-2024 (O&M)

Date of decision: 03.05.2025

Kala Singh

....Petitioner

Versus

Paramjit Singh and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**Present:** Mr. Kuldeep Singh, Advocate
for the petitioner.Mr. Piyush Sharma, Advocate for
Mr. Varun Sharma, Advocate
for respondent No.1.

Mr. Rishabh Singla, AAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

The present revision petition has been filed for setting aside the impugned judgment of conviction and order of sentence dated 04.01.2024 passed by the learned Judicial Magistrate 1st Class, Jalalabad as well as the judgment dated 04.07.2024 passed by the learned Sessions Judge, Fazilka.

Brief facts of the case are that a complaint under Section 138 of the Negotiable Instruments Act was filed against the petitioner on the ground of dishonouring of cheque bearing No.00003 dated 07.01.2022 amounting to Rs.2,76,000/- issued in favour of the complainant/respondent No.1 by the petitioner in discharge of his liability and hence, the present complaint.

Learned counsel for the petitioner *inter alia* contends that the complaint in question is not maintainable as the cheque in question was given by the petitioner for the purpose of security cheque to secure the said loan amount and the petitioner has already returned the total amount to one Kashmir



Singh on instructions of the complainant/respondent No.1 and nothing remains due towards the him.

Per contra, learned State counsel assisted by counsel for respondent No.1 opposes the prayer of the petitioner as the learned Court below has passed a well-reasoned judgment based on correct appreciation of evidence available on record and as such, he does not deserve any leniency.

Having heard learned counsel for the parties and upon perusal of the record, it transpires that the accused in his statement given under Section 313 Cr.P.C. did not provide any strong reason or evidence to avoid liability for paying the cheque amount. The complainant, namely, Paramjit Singh, supported his complaint by giving his statement as CW-1 and submitting documents (Ex.C1 to Ex.C6). In his defence, he has contended that the cheque was given for the security purpose and the same was misused by the complainant but he failed to explain facts and circumstances in detail which could go to the root of the case of the complainant. However, the Court noted that the documents submitted by the accused (marked A to E) were not clearly relevant to the case. Further, the accused did not bring any witness or produce oral evidence to support his defence. The documents submitted by the accused related to a different person and they did not help in proving his innocence. Therefore, the Court found that the accused failed to prove his defence and remained responsible for the cheque payment.

The cheque in question was returned unpaid as evidenced by memo Ex.C-2. The complainant, in support of his case, has also placed on record the legal notice (Ex.C-3) and the postal receipt (Ex.C-4), however, no befitting reply was sent by the accused to the complainant/respondent No.1.

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Furthermore, no police complaint was moved by the accused alleging the misuse of the cheque in question involving hefty amount and also, he did not deny his signatures on the cheque in question.

In view of the above, the core issue that emerges for adjudication is whether the said cheque was issued by the accused in discharge of a legally enforceable debt or liability towards the complainant.

Further, based on the evidence, legal presumptions under Sections 139 and 118 of the Negotiable Instruments Act apply demonstrating the cheque was assumed to be issued for a valid debt. It was the responsibility of the accused to prove that he did not owe the amount when the cheque was given.

In view of the discussion above, both the Courts below have appreciated the facts of the case and the evidence on the file in the right perspective and warrants no interference of this Court and thus, the present petition is hereby stands dismissed and the learned Chief Judicial Magistrate concerned is directed to execute the order of sentence *qua* the petitioner.

(HARPREET SINGH BRAR)
JUDGE

03.05.2025*Neha*

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