



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

**CRM-A-1584-MA-2014**

Date of Decision: 28.04.2025

Harpreet Singh

..... Applicant

Versus

Amarjit Singh

.....Respondent

**CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

Present: Mr. J.S. Dadwal, Advocate, for the applicant.

**Rajesh Bhardwaj, J.**

1. The applicant has filed the present application under Section 378(4) Cr.P.C. for grant of leave to file an appeal against the impugned order dated 30.08.2014 passed by learned Judicial Magistrate First Class, Ludhiana whereby, the trial Court has acquitted the respondent accused in a complaint under Section 138 of the Negotiable Instruments Act, 1881 (for short, 'the Act') read with Section 420 IPC.

2. Succinctly facts of the case are that applicant-complainant filed the complaint under Section 138 of the Act against the respondent-accused. It was alleged that the applicant had friendly relations with respondent and thus, on his asking he gave a friendly loan of Rs.2 lacs to him. On several occasions, the applicant requested the respondent to repay the loan, however, he kept on avoiding the same on one pretext or the other. Thereafter, on his persistent request, the accused- respondent in order to discharge his legal liability towards the applicant, issued a cheque No.122256 dated 15.08.2012 for an amount of Rs.2 lacs drawn on Allahabad Bank, Vardhman Branch, Chandigarh Road, Ludhiana. However, on presentation of the same, the cheque was dishonoured with the remarks "Funds Insufficient" vide memo dated 03.09.2012. The applicant through his counsel issued notice dated 08.09.2012 to the accused- respondent, but



he failed to make any payment and hence, the applicant filed the complaint under Section 138 of the Act. On appraisal of the preliminary evidence, the respondent was summoned, who pleaded not guilty and claimed trial. During post summoning, the complainant-stepped into the witness box as CW1 and produced on record the documentary evidence Ex.C1 to Ex.C5. Besides this, the applicant produced Rajiv Kumar as CW2 and Shiv Parshad Gupta as CW3. The statement of the accused was recorded under Section 313 Cr.P.C., who denied the case filed against him. The accused appeared as DW1. After hearing the arguments from both the sides and appreciating the evidence, learned trial Court found the applicant having failed to prove his complaint against the respondent and thus, the same was dismissed by acquitting the respondent of the charges levelled against him vide order dated 30.08.2014. Hence, aggrieved by the same, the applicant filed by the present application for grant of leave to file an appeal.

3. Learned counsel for the applicant has submitted before this Court that the applicant-complainant and the respondent were close friends and it is on his asking of the respondent, loan of Rs.2 lacs was given to him by the applicant. He submits that the respondent in order to discharge his legal liability towards the applicant had issued a cheque No.122256 dated 15.08.2012, which on presentation was dishonoured with the remarks "Funds Insufficient". He submits that once the cheque has been issued by the respondent, there lies a presumption under Section 139 of the Act in favour of the holder of the cheque, who is the complainant. He submits that the applicant produced documentary evidence alongwith the witnesses, which duly proved that the cheque was issued by the respondent in



discharge of legal liability and thus, the complaint filed was duly proved. He submits that learned trial Court has misread the evidence led by the complainant and thus, there is perversity in the findings arrived at by the trial Court. He, thus, submits that the impugned order acquitting the respondent accused being perverse in nature deserves to be set aside by allowing the present application under Section 378(4) Cr.P.C. by granting special leave to the applicant for filing an appeal.

4. The Court has heard learned counsel for the applicant and perused the record with his able assistance. On the appreciation of the evidence produce, it is inferred that applicant-complainant produced oral and documentary evidence in support of the complaint filed by him. The applicant appeared as CW1, whereas, witnesses Rajiv Kumar and Shiv Parshad Gupta appeared as CW2 and CW3, respectively and both these witnesses did not support the case of the applicant and thus, they were declared hostile. The case of the applicant was to the effect that once the respondent had issued the cheque to him, hence, presumption under Section 139 of the Act lies in favour of the applicant, however, the respondent had rebutted the same by evidence led by him, wherein, the applicant was not found having capacity to advance the loan as alleged by him. The cheque relied upon by the applicant was found to have been misused by the applicant, which was given as a security by the respondent to settle the loan of wife of the respondent. The mandatory liability to be discharged by the respondent was not proved by the complainant-applicant. As per the criminal jurisprudence, every accused is presumed to be innocent until proven guilty. As per the law settled by Hon'ble Supreme Court, once the



accused is acquitted by the Court of law, there lies double the presumption of innocence in his favour. Hence, an Appellate Court should not disturb the findings of acquittal arrived at by the trial Court in a cavalier manner and it is only in case of perversity of the findings, the Appellate Court should interfere in the acquittal order passed by the trial Court. In **Jafarudheen and others vs State of Kerala** 2022 SCC Online SC 495, it is held that Appellate Court has to be relatively slow in reversing order of trial Court rendering acquittal, relevant para of the same reads thus:

“25. While dealing with an appeal against acquittal by invoking Section 378 of the Cr.P.C., the appellate Court has to consider whether the trial Court's view can be termed as a possible one, particularly when evidence on record has been analyzed. The reason is that an order of acquittal adds up to the presumption of innocence in favour of the accused. Thus, the Appellate Court has to be relatively slow in reversing the order of the Trial Court rendering acquittal. Therefore, the presumption in favour of the accused does not get weakened but only strengthened. Such a double presumption that enures in favour of the accused has to be disturbed only by thorough scrutiny on the accepted legal parameters.”

5. Weighing the facts and circumstances of the present case on the anvil of law settled, this Court finds no perversity in the order passed by the trial Court. Resultantly, the present application for grant of leave to appeal is dismissed.

28.04.2025  
sharmila

Whether Speaking/Reasoned  
Whether Reportable

**(RAJESH BHARDWAJ)**  
**JUDGE**

: Yes/No  
: Yes/No