



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

**CRM-A-441-MA-2012  
Date of decision: 21.04.2025**

**JAI SINGH**

**...APPLICANT**

**V/S**

**GANGA LAL**

**...RESPONDENT**

**CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present: Mr. Shiv Kumar, Advocate for the applicant.

Mr. Y.P. Khullar, Advocate for the respondent.

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**HARPREET SINGH BRAR, J. (ORAL)**

1.           The present application has been filed against the impugned judgment dated 30.11.2011 passed by learned Judicial Magistrate Ist Class, Faridabad as well as impugned judgment dated 18.05.2012 passed by learned Additional Sessions Judge, Faridabad, whereby respondent has been acquitted by both the Courts below in a complaint filed under Section 138 of Negotiable Instruments Act, 1881.

2.           Briefly stated, the applicant had given a loan of Rs.1,20,000/- to the respondent on account of friendly relations. In discharge his legal liability, the respondent issued a cheque bearing No.374206 dated 12.12.2006 for an amount of Rs.1,20,000/- payable at State Bank of India, Ballabhgarh. However, on presentation, the said cheque was dishonoured vide return memo dated 19.12.2006 with remarks "Funds Insufficient". Thereafter, the applicant served a legal notice dated 22.12.2006 upon the respondent, however, the respondent failed to make the payment. Hence, the complaint.



3. Having heard the learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that there are material discrepancies in the testimonies of prosecution witnesses as CW-1 in his examination-in-chief has nowhere deposed that the amount given by way of loan was with interest, whereas, in his cross-examination, he has accepted that the interest was @ 2 %, which was subsequently discharged by the help of *Panchayat*, but no one was examined in the Court to prove the same. Furthermore, the defence counsel has examined handwriting expert as DW-2, who has enlarged photographs of date and amount respectively, which indicates alteration and addition on the cheque. Furthermore, the respondent in his statement recorded under Section 313 Cr.P.C. stated that he did not give any cheque to the complainant but he had given a blank cheque to his partner Sunder in the year 2005 with his signatures to deposit the same in Provident Fund for the workers. As such, only vague allegations are levelled by the complainant/applicant against the accused/respondent and the prosecution has failed to prove its case beyond the shadow of reasonable doubt. As a result, the evidence led by the applicant/complainant does not inspire confidence of this Court.

4. 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 vs. State of H.P., 1973 (2) SCC 808 and Chandrappa and others vs. State of Karnataka, (2007) 4 SCC 415*). A Division bench of this Court in the judgment of *State of Haryana vs. Ankit and others* passed in *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.

5. In view of the facts and circumstances of the case, this Court finds that learned counsel for the applicant has failed to point out any perversity or illegality in findings recorded by the learned Courts below which warrants interference by this Court. As such, there is no merit in the present application and hence, the leave to appeal is denied.

(HARPREET SINGH BRAR)  
JUDGE

April 21, 2025  
manisha

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|------|---------------------------|--------|
| (i)  | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable        | Yes/No |