

(2014) 05 P&H CK 0504

High Court Of Punjab And Haryana At Chandigarh

Case No: CRM-A-482-MA-2014(O&M)

Meera

APPELLANT

Vs

Tarsem Lal

RESPONDENT

Date of Decision: May 19, 2014**Hon'ble Judges:** Rekha Mittal, J**Bench:** Single Bench**Advocate:** Jagjit Singh, Advocate for the Appellant**Final Decision:** Dismissed

Judgement

Rekha Mittal, J.

The present appeal has been directed against the judgment dated 26.02.2011 passed by the Special Magistrate, Kapurthala vide which the complaint filed by Mehnga Ram (since deceased) has been dismissed and the accused has been acquitted of the offence charged against him.

2. Apart from the fact that the appeal is barred by limitation as it has been filed 1001 days after expiry of limitation, I do not find any reason to intervene.

3. Mehnga Ram filed the complaint on the plea that the accused had obtained a loan of Rs. 2,70,000/- from him in the month of March 2005 and to discharge his liability issued cheque No. 205860 dated 06.08.2005 for an amount of Rs. 2,70,000/- drawn on Punjab and Sind Bank Branch Kapurthala. The cheque on its presentation to the bank got dishonoured due to insufficient funds vide memo dated 08.08.2005. On second presentation, it was dishonoured on 03.11.2005 with remarks "payment stopped by the drawer". The accused failed to make payment despite receipt of statutory legal notice dated 02.11.2005.

4. During the course of trial, the complainant filed his affidavit Ex. PA by way of examination-in-chief and he was partly cross-examined by counsel representing the opposite party. During pendency of further cross-examination of the complainant, he passed away. On 15.01.2010, Meera (petitioner) wife of Mehnga Ram was allowed

to be brought on record as legal heir of deceased complainant and to pursue the proceedings. Meera appeared in the witness box to prove the case. The learned trial Court on appreciation of evidence came to hold that financial position of the complainant was not very good and he obtained loan from his relatives while on the contrary, the financial position of the accused was sound and, therefore, the question of taking loan by the accused from one of his employees does not arise. As the petitioner failed to discharge the onus to establish on record that the deceased advanced a loan of Rs. 2,70,000/- or was in a financial position to advance such a loan, the trial Court rightly held that the complainant has failed to prove culpability of the accused beyond shadow of reasonable doubt. I do not find any error much less illegality in the findings as would call for interference in the judgment of acquittal.

5. Dismissed.