

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM No.A-369-MA of 2013 (O&M)

Date of decision: August 31, 2015

Navneet Kaur

...Applicant

Versus

Veerpal Kaur

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Anupam Singla, Advocate
for the applicant.

Mr.H.S.Jalal, Advocate
for the respondent.

INDERJIT SINGH, J.

Applicant-Navneet Kaur has filed this application under Section 378(4) Cr.P.C. seeking permission for leave to appeal against respondent Veerpal Kaur, challenging the judgment dated 17.04.2013 passed by learned Addl. Sessions Judge (Adhoc) Fast Track Court, Bathinda whereby the revision filed by the respondent against the summoning order dated 21.05.2011 passed by JMIC, Phul, was accepted.

It is stated in the application that accompanying appeal is being filed which is likely to succeed on the grounds taken therein. It is further stated that impugned order has been passed by learned lower Court on the basis of old law, which has already been overruled

by the Constitutional Bench of the Hon'ble Supreme Court in the matter of ***MSR Leathers vs. S.Palaniappan and anr., reported as 2013(1) SCC 177.***

Notice of motion was issued and learned counsel for the respondent appeared and contested the application.

I have heard learned counsel for the parties and have gone through the record.

From the record, I find that in the present case, complaint was filed by Navneet Kaur against Veerpal Kaur under Sections 138 and 142 of the Negotiable Instruments Act. Vide order dated 21.05.2011, learned JMFC, Phul summoned the respondent for the offence under Section 138 of the Negotiable Instruments Act. Then revision was filed by the respondent and learned Addl. Sessions Judge (Adhoc) Fast Track Court, Bathinda vide impugned judgment dated 17.04.2013, accepted the revision and set aside the summoning order and dismissed the complaint. Against the impugned judgment dated 17.04.2013 passed in revision petition filed by the accused-respondent, present appeal has been filed by the complainant to set aside the impugned judgment.

There is no provision to file the appeal against the order passed in the revision. Against the impugned judgment dated 17.04.2013 vide which the summoning order was set aside and complaint was dismissed, the complainant has right to file revision it being the first revision by the complainant, as the earlier revision in which summoning order was set aside, was filed by the accused-

respondent before learned Addl. Sessions Judge.

Section 397(3) Cr.P.C. provides as under:-

“(3) If an application under this section has been made by any person either to the High Court or to the Sessions Judge, no further application by the same person shall be entertained by the other of them.”

As regarding the judgment cited by learned counsel for the applicant, I have gone through the judgment and the same having distinguished facts, will not apply in the present case.

In view of the above discussion, the appeal is not maintainable, as such question of granting leave to file appeal does not arise.

Therefore, the present application stands dismissed being not maintainable.

August 31, 2015
Vgulati

(INDERJIT SINGH)
JUDGE