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**(2009) 05 P&H CK 0230**  
**In the Punjab And Haryana At Chandigarh**  
**Case No : Criminal Revision No. 2137 of 2006**

Gurpreet Singh

APPELLANT

Vs

Punjab State Co-operative Supply and Marketing Federation  
Ltd.

RESPONDENT

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**Date of Decision :** 15-05-2009

**Acts Referred:**

Negotiable Instruments Act, 1881 (NI) — Section 138

**Citation :** (2010) 1 CivCC 177 : (2009) 4 RCR(Civil) 376

**Hon'ble Judges :** Sabina, J

**Bench :** Single Bench

**Advocate :** S.S. Bhinder, for the Appellant; Aman Deep Singh Rai, AAG, Punjab, for the Respondent

**Final Decision :** Dismissed

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## Judgement

Mrs. Sabina, J.—Respondent-Punjab State Cooperative Supply and Marketing Federation Limited ("Markfed" for short) filed a complaint u/s 138 of the Negotiable Instruments Act, 1881 (for short- "the Act") against the petitioner. The case of the complainant/respondent was that paddy for milling purposes had been handed over to M/s.Jhalli Rice Mills, Dhanaula ("the Mill" for short) and the same was to be milled up to 31.12.1999. Since the milling of paddy was not done within the stipulated period, the Mill became liable to make the payment in lieu of un-milled balance paddy. On 20.02.2000, the petitioner on behalf of the Mill issued cheque for a sum of Rs. 2 5,00,000/- in favour of the respondent. The said cheque was presented for encashment with the bank but the same bounced.

2. After recording of preliminary evidence, the petitioner was summoned to face the trial. Vide judgment and order dated 24.03.2006. Judicial Magistrate, 1st Class, Barnala convicted the petitioner u/s 138 of the Act and sentenced him to undergo rigorous imprisonment for a period of one year with a fine of Rs. 5,000/-. The said conviction and sentence were upheld by the Additional

Sessions Judge, Barnala in appeal vide judgment dated 04.10.2006. Hence, the present revision petition.

3. Learned Counsel for the petitioner has submitted that in fact, the cheque in question had been returned by the bank as it did not relate to the said branch, hence, no case u/s 138 of the Act was made out.

4. Learned State counsel, on the other hand, has submitted that the cheque in question was presented for encashment to State Bank of Patiala, branch Barnala, which was further sent to State Bank of Patiala, branch Dhanaula for clearance.

5. In the present case cheque in question (Ex. C7) dated 20.02.2000 bears the signatures of the petitioner being partner of the Mill. It was drawn in favour of the respondent-Markefed for a sum of Rs. 25,00,000/-. The petitioner had an account with State Bank of Patiala, branch Dhanaula. Gurcharan Singh Dhalla, Senior Accounts Officer of the Markfed CW3 has deposed as per the contents of the complaint. Charanjit Singh CW5 has corroborated the statement of CW3. The other prosecution witnesses have also corroborated the statement of CW3 on relevant aspects. Thus, the respondent-Markfed had been successful in proving its case by leading oral as well as documentary evidence.

6. From the evidence on record, it is evident that when the cheque in question (Ex. C7) was presented for encashment, the same bounced with the remarks "Referred to Drawer". The cheque in question was not returned back by the bank with the report that the same did not relate to branch Dhanaula rather it was returned back with the remarks "Referred to Drawer", which means insufficient funds. Hence, there is no force in the contention raised by the Learned Counsel for the petitioner. Although Brij Lal, Computer Operator from State Bank of Patiala, branch Dhanaula CW1 has deposed that the cheque in question was not issued by their branch but no reliance can be placed on the same. It appears that CW 1 with a view to help the petitioner has deposed against the record. The documentary evidence on record belies the statement of CW1 to this effect. As per the memos Ex. C 10 and C11, the cheque in question was dishonoured with the report "Referred to Drawer".

7. Hence, the Courts below have rightly convicted and sentenced the petitioner u/s 138 of the Act. The impugned judgments do not call for any interference.

Accordingly, this revision petition is dismissed.