

**IN THE COURT OF SHRI RAKESH KUMAR RAMPURI,  
METROPOLITAN MAGISTRATE (NI ACT) KARKARDOOMA COURTS:  
SHAHDARA, DELHI.**

**JUDGMENT U/S 355 Cr.PC**

- a. Serial No. of the case : VK-2052/07
- b. Date of the commission of the offence : 26/09/2007
- c. Name of the complainant Satish
- d. Name of accused person and his parentage: Smt. Seema,  
and residence W/o Sh. Rajesh Kumar,  
R/o F-1/30 B, Krishan Nagar,  
New Vijay Chowk, Delhi-51.
- e. Offence complained of : Dishonoring of  
cheque for  
funds insufficient.
- f. Plea of the accused and his examination (if any): Not guilty  
Because no loan taken  
from the complainant and  
cheque in question was not  
issued in favour of complainant.
- g. Final Order : Held not guilty.  
Acquitted.
- h. Date of such order : 22.03.2012.
- i. Brief reasons for decision:-

written document or acknowledgment on part of accused. Complainant also failed to explain why cheque in question was issued by accused instead of Rajesh Kumar (husband of accused), who had allegedly taken loan from the complainant. Complainant during his cross examination stated that he is not income tax assessee and aware that no transaction of Rs. 20,000/- can be conducted by way of cash as per income tax rules. However, complainant failed to file ITR showing transaction in question with accused. Here, it is also notice worthy that complainant did not explain anywhere the purpose and compelling reason behind taking of alleged friendly loan for the first time by the accused from the complainant.

8. Handwriting expert namely Syed Fazal Hudda (DW1), testified before the court that signature appearing on cheque in question had not been written by the accused who signed other admitted documents on judicial file of this case. However, Ld. Counsel for complainant tried to impeach the credibility of testimony of aforesaid handwriting expert (DW1) on the ground of lacking of his qualification and being interested witness of accused as he had appeared on behalf of associate of counsel for accused in 4-5 cases. However, court is of opinion that no expert opinion is binding on the court and job of the expert is to provide valuable and scientific inputs which are helpful in reaching just conclusion of the case in hand.

9. The contradiction between examination in chief and cross examination of complainant casts doubt over the genuineness of the probable

story of the complainant. Here, court is aware of the basic legal provision as to onus of complainant to prove the case beyond reasonable doubt, once accused managed to probabilies his/her defence. It is also noticeable that complainant has to prove his case as matter of fact and same can not be allowed to be proved by taking benefit of lacuna in the defence of accused. Here, it is noteworthy that accused can create probable doubt over the case of complainant by exposing contradiction in the testimony and documents of the complainant witnesses themselves without leading any defence evidence on his part. Court is also mindful of basic legal doctrine regarding benefit of any reasonable doubt shall be given to the accused.

10. In view of above discussion of the facts and circumstances of the case and applicable legal provisions and principles this court is of considered opinion that accused has probablized his defence with standard of balance of probability by creating probable doubt over existence of legally enforceable liability towards complainant in discharge of which the alleged cheque in question was allegedly issued. **Accordingly accused stands acquitted.**

**ANNOUNCED IN THE OPEN COURT  
ON 22<sup>nd</sup> Day of March, 2012**

**(Rakesh Kumar Rampuri)  
MM, NI Act, (East)  
KKD Courts, Delhi.**