

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

(118)

**CR No.2500 of 2015 (O&M)  
Decided on: April 9, 2015.**

**Kewal Singh**

**.... Petitioner**

**Versus**

**Shinderpal Singh**

**..... Respondent**

**CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI**

Present: Mr. Navjot Singh, Advocate,  
for the petitioner.

**M.M.S. BEDI, J (ORAL)**

Petitioner has filed a suit for recovery against the defendant-respondent. An application filed for attachment before judgment under Order 38 Rule 5 CPC has been dismissed.

The plaintiff is brother-in-law of defendant-respondent. Plaintiff had allegedly given a sum of Rs.4,50,000/- to the defendant-respondent for sending the son of the plaintiff to abroad on the receipt of the money. The amount claimed in the suit was allegedly received by the defendant with a promise to return the same. A cheque issued by defendant for a sum of Rs.2,72,530/- was allegedly dishonoured, as such a complaint has also been filed by the plaintiff-petitioner against the defendant-respondent, under the Negotiable Instruments Act.

The order dismissing the application under Order 38 Rule 5 CPC does not appear to be an illegal order as the petitioner appears to have not fulfilled the necessary requirements warranting grant of relief under Order 38 Rule 5 CPC.

No ground is made out for interference in the discretionary order passed by the trial Court.

Learned counsel for the petitioner has submitted that the alternative claim under Order 39 Rules 1 and 2 CPC has also not been considered by the trial Court. In case, the petitioner is aggrieved by any order passed in application under Order 39 Rules 1 and 2 CPC, the order is an appealable order. Even otherwise, prima facie, there does not appear to any ground for grant of any relief for interim injunction in a suit for recovery amongst family members especially when there is no material available on the record that with an intent to delay the execution of any decree which is likely to be passed the defendant has absconded or left the local limits of the jurisdiction of the Court or is about to abscond or has disposed of or removed from local jurisdiction of the trial Court, his property or he is about to leave India.

Dismissed.

**(M.M.S. BEDI)**  
**JUDGE**

**April 9, 2015**  
*harsha*