

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

CRM-A-259-MA-2013(O&M)

Date of Decision : 19.01.2015

Surinder Singh

.....Appellant

Versus

Lalit Garg

..... Respondent

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. Hitesh Kaplish, Advocate
for the appellant.

- i. Whether Reporters of local papers may be allowed to see the judgment?
- ii. To be referred to the Reporters or not?
- iii. Whether the judgment should be reported in the Digest?

AJAY TEWARI, J. (Oral)

This is an appeal against the acquittal of the respondent under Section 138 of the Negotiable Instruments Act.

The case set up by the appellant is that the respondent was a friend of his son. He had given a sum of Rs. 60 lacs to the respondent because he wanted to start a Restaurant/Club and it was agreed that the amount would be paid back in six months and the appellant shall also get 10 % of the profit. Ultimately as per the appellant the club was closed down and when the appellant pressed for his money the complainant issued him a cheque for Rs. 60 lacs. That having bounced the appellant gave legal notice(which was, however, received back undelivered) and then instituted the present complaint.

On being summoned the case of the respondent was that he had started a Restaurant/Club but he had never taken any loan from the appellant. However, for the smooth running of his business he used to keep signed cheques in his car and in his office and since the son of the appellant was his very good friend, he had borrowed his car on a few occasions and may have stolen the cheque.

The trial Court found it strange that the appellant had advanced a sum of Rs. 60 lacs and had not got executed any loan document and there was not even any partnership agreement since as per his case he was to receive 10% of the profit. Further, the courts below doubted the capacity of the appellant to have raised such a heavy amount and ultimately dismissed the complaint.

The only argument raised by learned counsel is that the respondent had not displaced the presumption under Section 139 of the Negotiable Instruments Act. He has relied upon **Rangappa v. Mohan** reported as 2010(3) RCR(Criminal) 165.

I have been taken through the record by the learned counsel. There is no dispute with the law laid down by their lordships in Rangappa's case(supra), however, in the facts and circumstances of the present case it cannot be said that the view taken by the trial Court is perverse.

Appeal is dismissed.

Since the main case has been decided, the Criminal Misc.Application, if any also stands disposed of.

(AJAY TEWARI)
JUDGE

January 19 , 2015
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