IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-A-665-MA-2015 (O&M)
Date of Decision: 01.10.2015

M/s Shriram Transport Finance Company Ltd.

...Appellant(s)

Versus

Kashmir Singh

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not? Yes
3. Whether the judgment should be reported in the digest?

Present: Mr. G.S. Sandhu, Advocate
for the appellant.

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ANITA CHAUDHRY, J.

1. This is an appeal against the acquittal recorded by the Judicial Magistrate 1st Class, Pathankot in a complaint filed by the appellant under Section 138 of the Negotiable Instruments Act.

2. It would be necessary to cull out the facts which led to the filing of a complaint. Respondent Kashmir Singh had approached the appellant Company seeking finance for purchase of a vehicle. The loan was sanctioned. The accused agreed to repay it in monthly installments. The complainant had alleged that accused in discharge of its outstanding liability had given cheque of Rs.6,88,494/- on 27.06.2011 and assured that the cheque would be honoured but when

the cheque was presented for realization/collection, it was dis-honoured. Notice was sent calling upon the accused to pay the cheque amount but the amount was not paid.

3. The accused was summoned. The complainant led its evidence. The accused in his statement under Section 313 Cr.P.C. pleaded that the cheque was given as security and he had cleared all his liability and no amount was due and the cheque had been filled up by the company and the complaint had been filed to extort money. He had stated that the registration certificate of the vehicle was in the illegal custody of the complainant and he could only read and write in Punjabi. By way of defence he had produced the receipts Ex. R-1 to R-4 and the loan hypothication agreement Mark-X.

4. The trial Court after hearing both the sides and after going through the evidence dismissed the complaint on the ground that the complaint was vague and the complainant had held back the date on which the loan was advanced. It had noted that the complainant did not produce the account books to show that amount was outstanding. It was observed that the main witness was candid enough to admit that the cheque in question was kept as security and in the light of that admission, the complaint was dismissed.

5. Heard.

A vain attempt was made by the counsel for the appellant but I find that there is no merit in the appeal. It had been urged that the cheque amount was due and the loan taken by the accused had not been repaid and as the signatures on the cheque were not disputed, the view taken by the Court below was palpably wrong and there was a presumption stipulated under Section 139 of the Negotiable Instruments Act.

6. The complaint was filed on the allegation that the cheque had been issued by the accused as the amount was outstanding. The trial Court had noted that the complaint was bereft of factual aspects. The complainant had failed to mention the date on which the loan was advanced. They failed to produce their account books. The witness appearing on behalf of the complainant had admitted that nothing was due towards the accused. He had also admitted that the cheque was given as security, thus supporting the plea raised by the accused. In view of this, the trial Court had rightly dismissed the complaint. It needs to be said that the complaint filed by the appellant was only to harass the accused and it has wasted the precious time of the Court.

The appeal is dismissed.

(ANITA CHAUDHRY)
JUDGE

01.10.2015
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