

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

CRM-A-755-MA-2015 (O&M)

Date of decision : 28.09.2015

Karam Singh Hooda

...Petitioner

Versus

Malkeet Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Abhishek Singh, Advocate for the applicant-appellant.

JITENDRA CHAUHAN, J. (Oral)

CRM No.14362 of 2015

For the reasons contained in the application, same is allowed and delay of 63 days in filing the leave to appeal is condoned.

CRM-A-755-MA of 2015

This leave to appeal is directed against the impugned judgment dated 05.12.2014 passed by the learned Judicial Magistrate Ist Class, Yamuna Nagar whereby the accused-respondent was acquitted from the charges framed against him under Section 138 of Negotiable Instrument Act.

The learned counsel for the appellant contends that the trial court acquitted the accused-respondent by holding that the legally recoverable debt and liability was not proved without appreciating the material facts on record. He submits that if it is admitted fact that the

signature on the cheque in question is of the accused-respondent then how it can be said that the material ingredients of offence under Section 138 of Negotiable Instruments Act, 1881 are not fulfilled in the present case.

Heard.

In this case, during cross examination of the complainant, he stated that he did not know how much amount was given by him to accused-respondent. The cheque in question was given by the accused-respondent to the appellant as a security while taking the tractor trolley on rent but the complainant did not return the cheque which he himself admits during his cross examination that when accused returned back the tractor trolley to him he did not return back the documents of the accused which were taken by him at that point of time. The liability or debt in this case does not come under the ambit of Section 138 of Negotiable Instruments Act as it specifically provides that debt or liability has to be qualified with word legally recoverable debt.

Leave to appeal declined.

Dismissed.

28.09.2015

ashok

**(JITENDRA CHAUHAN)
JUDGE**