

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

**RSA No.3336 of 2011 (O&M)**

**Date of decision: 01.10.2015**

Arun Kumar

... Appellant

Vs.

Punjab & Sind Bank and another

... Respondents

**CORAM: HON'BLE MR. JUSTICE AMIT RAWAL**

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Present:- Mr. Jai Deep Verma, Advocate  
for the appellant.

Mr. Vijay Lath, Advocate  
for respondent No.2.

**AMIT RAWAL J. (Oral)**

Challenge in the present appeal is to the impugned judgments and decrees of the Courts below, whereby, the suit filed by the Bank for recovery of ₹ 75,250/- along with interest @ 12% p.a. against appellant/defendant No.2, has been decreed.

Mr. Jai Deep Verma, learned counsel for the appellant-defendant No.2 submits that in pursuance to the complaint lodged to the Bank with regard to withdrawal of cheque amount by defendant No.1, the Bank filed the suit for recovery of ₹75,250/- including the element of interest. As per the finding rendered in paragraph No.12 of the trial Court, it is borne out that the Court intended to pass

decree against defendant No.1 and not against defendant No.2 but penultimate, i.e., in relief clause, the suit has been decreed against defendant No.2. He further submits that Bank had sought the relief against defendant No.1 and not against defendant No.2. Thus, submits that there is illegality and perversity in the finding rendered by both the Courts below.

Mr. Vijay Lath, learned counsel appearing on behalf of respondent No.2 submits that the aforementioned amount withdrawn vide cheque in dispute had been handed over to defendant No.2, therefore, the trial Court rightly passed the decree against defendant No.2. Even the appellant/defendant No.2 also faced criminal charges.

I have heard learned counsel for the parties and appraised the impugned judgments and decrees of the Courts below.

Paragraph No.12 of the trial Court reads thus:-

*“From the oral as well as documentary evidence, it is proved that defendant No.1 withdrew the amount of ₹47,000/- from the account of defendant No.2 vide cheque Ex.P5. Defendant No.1 himself averred in Ex.PX/A that he withdrew the amount from the account of defendant No.2, but stated to had handed over the same to defendant No.2. Further more Ex.P6 bears the signatures of defendant No.1 regarding receiving of the amount of ₹47,000/- from the plaintiff bank. Therefore,*

*the plaintiff bank is entitled to recover the amount of ₹47,000/- i.e. cheque amount as well as interest @ 12% p.a. from the date of payment of cheque amount. Hence this issue No.1 is decided in favour of the plaintiff bank and against defendant No.1, however in favour defendant No.2.”*

As per the finding rendered by the trial Court, the amount withdrawn by defendant No.1 had been handed over to defendant No.2. Therefore, by noticing the aforementioned fact, the trial Court decreed the suit vis-a-vis appellant/defendant No.2. The lower Appellate Court being the last Court of fact and law came to categorical finding that it was bearer cheque which was signed by defendant No.2. The alleged forgery, as per the contention of Mr. Verma, Advocate, had not been proved on record. No handwriting expert has been examined to dis-believe or disprove the signatures on the cheque. In the absence of the same, on noticing the record of the Bank, the trial Court found that it was a self cheque and therefore, Bank cannot be burdened with liability of paying the amount of ₹47,000/- twice on the basis of one cheque. Therefore, appellant/defendant No.2 should suffer for his own fault and he should pay the amount with right of collecting the same.

I do not find any illegality, much less, perversity in the aforementioned finding rendered by both the Courts below, much less, no substantial question of law arises to be determined by this

Court in adjudication of the present regular second appeal.

In view of what has been observed above, there is no merit in the appeal. Accordingly, the same is dismissed.

**(AMIT RAWAL)**  
**JUDGE**

**October 01, 2015**  
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