

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.4480 of 2015 (O&M)

Date of Decision.09.10.2015

2. RSA Nos.4488 and 4489 of 2015 (O&M)

Sunder Lal

.....Appellant

Versus

Jagmal Singh

.....Respondent

Present: Ms. Sonia G. Singh, Advocate
for the appellants.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

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

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K. KANNAN J. (ORAL)

1. Delays of 81 days in refiling the respective appeals are condoned.

2. All the three appeals relate to decrees granted on the basis of promissory notes said to have been executed by the defendant on three different dates on 10.10.1998, 5.5.2001 and 15.05.2001 for amounts of ₹ 50,000/-, ₹30,000/- and ₹30,000/- respectively. The plaintiff had issued a notice on 19.05.2001 requiring the return of the amount due under the promissory notes and the defendant having received the same did not care to respond. On the other hand, he made a complaint to the police on 01.06.2001 that the promissory notes had been taken by coercion and when he followed up the police complaint with private complaint to Magistrate on 15.06.2001, the plaintiff's explanation was that the defendant was coming up with a plea of

coercion only after he received notice demanding the payment by the plaintiff. The Courts drew an adverse inference against the defendant for not replying to the notice and drew the presumption under Section 118 of the Negotiable Instruments Act and granted the decree. The Court accepted the plaintiff's case that the complaint to the police or the private complaint which had been later filed, was only to get away from the obligation of repayment of loan especially when he did not even care to immediately reply the notice issued by the plaintiff. If the defence was that the promissory notes were obtained by coercion, the burden of proof was only on the defendant to establish such coercion. If the plaintiff had issued the notice demanding repayment, the first occasion when the defendant must have set out his case of coercion must have been only through a reply to the notice issued by the plaintiff. If the defendant was looking for his own complaint to the police as providing a justification and affording proof that documents were brought by coercion, the Courts were justified in finding that they were merely self serving in nature and discredited the evidence of the defendant.

3. I will find the appreciation of facts to be appropriate under the circumstances and find no substantial question of law as involved in any of these appeals. The second appeals are dismissed.

(K. KANNAN)
JUDGE

October 09, 2015
Pankaj*