

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

RSA No. 1918 of 2014 (O&M)

Date of decision : 15.5.2015

Gurpreet Singh

... Appellant

VS

Gurnam Singh and others

... Respondents

Coram: Hon'ble Mr. Justice Rajesh Bindal

Present: Mr. Ajit Singh Sodhi, Advocate, for the appellant.

Rajesh Bindal, J.

One of the legal heir of the defendant is before this Court impugning the concurrent findings of fact recorded by both the Courts below, whereby the suit filed by respondent no.1/ plaintiff for recovery of ₹ 3 lacs with interest, was decreed.

The claim was made on the basis of promissory note dated 5.11.2001, executed by Jarnail Singh (deceased). The suit was filed by the plaintiff on 29.10.2004, which was decreed by the trial court. The appeal was dismissed by the learned Lower Appellate Court.

Learned counsel for the appellant submitted that the predecessor-in-interest of the appellant did not have any relation with respondent no. 1/ plaintiff, hence, the story put forward that he had raised loan of ₹ 3 lacs from him was false. In fact, deceased Jarnail Singh had been selling his agricultural produce through Kamal Kumar, Commission Agent. He was the mastermind behind the forged pronote. When the deceased stopped selling his produce through Kamal Kumar, he may have misutilised the blank document got signed from deceased Jarnail Singh. In fact, he committed suicide on 11.10.2007. In the suicide note, he had clearly mentioned that loan amount had been repaid but he was still being harassed. FIR was got registered. Thereafter, the matter was compromised. Still respondent no. 1/ plaintiff continued pursuing the suit. There are

discrepancies in the statements of the witnesses produced by the plaintiff. Hence, the judgment and decree of both the Courts below deserves to be set aside.

After hearing learned counsel for the appellant, I do not find any reason to interfere with concurrent findings of fact recorded by both the Courts below. The claim made by respondent no. 1/ plaintiff is based upon promissory note dated 5.11.2001 showing that deceased Jarnail Singh had borrowed a sum of ₹ 3 lacs from him. The execution of the pronote and receipt was duly proved by the plaintiff while appearing in the witness box as PW1. It was duly supported by one of the marginal witnesses and the scribe. They all proved that at the time of execution of promissory note, the amount had been handed over to deceased Jarnail Singh. In the written statement filed by deceased Jarnail Singh, who died after filing the same, he had admitted his signatures on the promissory note and receipt but the same was sought to be explained by stating that he had dealings with Kamal Kumar, Commission Agent, who may have utilized a blank signed document for fabricating promissory note and receipt. One of the son of deceased, namely, Gurpreet Singh while appearing in the witness box admitted the signatures of his father on the document. DW2 Sukhdev Singh uncle of the deceased went on different direction altogether. He stated that the promissory note and the receipt were forged and fabricated document. Jarnail Singh had committed suicide on 11.10.2007 for which FIR No. 191 dated 13.10.2007 under Section 306 IPC was registered. In the suicide note, Jarnail Singh had admitted that he had obtained the loan in question but the same was returned. Respondent no. 1/ plaintiff Gurnam Singh and Kamal Kumar were impleaded as accused in the FIR. Quashing of the FIR was prayed for by the accused vide CRM -M No. 4423 of 2007. This Court vide order dated 30.11.2009 quashed the FIR finding that no case was made out in the FIR against them. Hence, the plea of the appellant that FIR was quashed as the dispute was settled between the parties is not borne out from the record. Though in the suicide note, the deceased admitted raising of loan from respondent no. 1/ plaintiff for which documents were available, however, it is merely his statement that the loan had been returned, but there was no corroborative evidence to prove this fact.

In view of the aforesaid material on record, I do not find that any illegality has been committed by the learned Courts below in decreeing the suit filed by respondent no. 1/ plaintiff.

No substantial question of law arises. The appeal is, accordingly, dismissed.

15.5.2015
vs

(Rajesh Bindal)
Judge