

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

CRM-A-326 MA-2012(O&M)

Date of decision: 05.04.2016

Sada Ram

.....Applicant

versus

Subash Chand

.....Respondent

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.Kul Bhushan Sharma, Advocate for the petitioner

- 1. Whether Reporters of Local Newspapers 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?*

Kuldip Singh, J. (Oral)

CRM No.28746 of 2012

For the reasons mentioned in the application, it is allowed and 14 days delay in filing the application for grant of leave to appeal stands condoned.

CRM-A-326 MA-2012(O&M)

The applicant has challenged the judgment dated 21.12.2011, passed by learned Judicial Magistrate 1st Class, Rewari, vide which, his complaint under Section 138 of the Negotiable Instruments Act, 1881 was dismissed.

It comes out that the complainant agreed to sell certain plot to the accused vide agreement to sell dated 22.12.2003. At the time of agreement, Rs.40,000/- were paid and cheque No.714508

dated 31.3.2004 for Rs.50,000/- was issued. The said cheque when presented before the Bank was dishonoured. In this case, admittedly, no sale deed was executed. The initial amount of Rs.40,000/- was the earnest money. If the accused has failed to fulfill his part of obligation, complainant could forfeit the earnest money. However, Rs.50,000/- paid as part of the sale consideration could not be called legally enforceable debt, since the sale deed has not been executed so far. As such, there is no liability under Section 138 of the Negotiable Instruments Act, 1881.

Resultantly, the present application for grant of leave to appeal stands dismissed.

05.04.2016
gk

(Kuldip Singh)
Judge