

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

**CRM-A-381-MA-2012 (O&M)
Date of Decision: January 05, 2016**

Abhay Singh

.... Applicant

vs.

Ashok Kumar

.... Respondent

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. S.K. Yadav, Advocate for the applicant.

None for the respondent.

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-30214-2012

There is delay of 340 days in filing the present application for leave to appeal.

For the reasons mentioned in the application, supported by an affidavit, delay of 340 days in filing the present application for leave to appeal, is condoned subject to all just exception.

Application stands disposed of.

CRM-A-381-MA-2012

Impugned in the present application for leave to appeal is the judgment dated 07.01.2011 passed by learned Judicial Magistrate 1st Class, Mahendergarh, vide which the complaint filed by the present applicant under Section 138 of the Negotiable Instruments Act, 1881, was dismissed.

The allegations against the accused are that on 14.10.2007, he had taken a cash loan of ₹10,00,000/- from the complainant for the purchase of agriculture land. It is stated that for the part payment of loan amount, a cheque bearing No.060388, dated 25.08.2008, amounting to ₹2,85,000/- was issued by the accused. When the cheque was presented to the bank, the same was dishonoured.

Learned Judicial Magistrate 1st Class, Mohindergarh after recording the evidence believed the version of the accused that except ₹70,000/-, the balance amount was also paid. Learned Magistrate has referred to the statement of DW1 Rajesh, who had deposed that the accused had paid ₹50,000/- on 01.08.2008. Similarly, Rajender Singh, DW2 had also stated that on 07.05.2008, ₹70,000/-, on 26.06.2008 ₹40,000/- and on 17.07.2008 ₹50,000/- were paid by the accused through him. The said witnesses were cross-examined at length. It is the case of the complainant that out of the loan amount, he had received a sum of ₹7,15,000/-. It is not claimed that regarding the said amount, any receipt was issued.

It being so, the oral evidence of DW2 was rightly believed. The learned Magistrate had taken one of the possible views. Therefore, there is no ground to interfere in the impugned order in acquitting the accused.

Accordingly, the present application for leave to appeal is dismissed.

(KULDIP SINGH)
JUDGE

January 05, 2016

sarita