

**234-A IN THE HIGH COURT OF PUNJAB AND HARYANA
 AT CHANDIGARH**

CRM-A-873-MA of 2011(O&M)

Date of decision : 02.08.2016

Ashok Kumar Garg

..... Appellant

versus

Mrs. Kamlesh Rani

..... Respondent

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Raj Kapoor Malik, Advocate
 for the appellant.

AJAY TEWARI, J. (Oral)

This appeal has been filed against the acquittal of the respondent.

As per the allegation the respondent had given a cheque of Rs.1.00 lac to the complainant-applicant-appellant. That cheque having been dishonored the complainant-applicant-appellant filed the instant complaint. In this case it was found that the respondent had made a payment of Rs.43,500/-. The trial Court found that the respondent had made one payment of Rs.43,500/- to the applicant-appellant and therefore the remaining amount could only be Rs.56,500/- which was less than the cheque amount.

Learned counsel for the applicant-appellant has however argued that the payment of Rs.43,500/- was a separate transaction but he has

accepted the fact that this was not mentioned either in the legal notice or the complaint and this explanation came for the first time in the examination-in-chief of the applicant-appellant. He has however argued that the respondent had first reported to the bank that the cheque in question had been lost and had thereafter stopped the payment and there is no explanation why the cheque was reported to have been lost. In the circumstances the Court was faced with two anomalies; one, the admitted payment of Rs.43,500/- and the second the action of the respondent in having reported the cheque as lost.

Even if the action of the respondent in reporting the cheque as lost is suspicious yet the applicant-appellant has not been able to explain the payment of Rs.43,500/- and benefit of that doubt has to go to the respondent.

Consequently I find no reason to take a different view to that taken by the trial Court.

Since application is dismissed, appeal is also dismissed.

Since the main case has been decided, the pending criminal miscellaneous application, if any, also stands disposed of.

02.08.2016
pooja sharma-I

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable :	Yes/No