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

**C.R.M-A No.1288-MA of 2016 (O&M)
Date of Decision : 31.08.2016**

Sat Pal Bhatia

..... Petitioner

versus

Surinder Singh Sidhu

..... Respondent

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. J.S. Mehndiratta, Advocate
for the applicant-appellant.

AJAY TEWARI, J. (Oral)

This application has been filed for grant of special leave to file appeal against the judgment dated 20.05.2016 passed by the Judicial Magistrate Ist Class, Yamuna Nagar at Jagadhri dismissing complaint filed by the appellant against the respondent under Section 138 of the Negotiable Instruments Act.

As per the appellant he had given a loan of Rs.5 lacs and

after two years the complainant had given him a cheque of the loan

amount of Rs.5 lacs but on presentation the cheque having been dishonored the instant complaint was filed.

The main reason which weighed with the trial Court for dismissing the complaint was that after the cheque had been dishonored the appellant had purchased a house from the respondent. As per the trial Court once the cheque had been dishonored the appellant in the normal course would have deducted the cheque amount from the sale consideration. Having not done so, in the opinion of the trial Court, the appellant would seem to have waived off his debt.

Learned counsel for the appellant has vehemently argued that the approach of the trial Court in interpreting the transaction of sale was erroneous.

Be that as it may, in my opinion, the interpretation cannot be said to be so perverse as to justify an interference against the order of dismissal of complaint.

Learned counsel for the appellant has further argued that bonafide of the appellant can well be seen from the fact that the appellant has appended the court fees and filed a suit for recovery.

In the circumstances, it is directed that the said suit would be decided on its own merits without reference to the present case and in

case the appellant is able to satisfy the Court he would get a decree.

Application for grant of special leave to file appeal stands dismissed.

Petition stands disposed of in the above terms.

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

August 31, 2016
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(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No