

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

**CRM-A No.230-MA of 2016
Date of Decision: May 12, 2016**

Sh. Kamaljit Singh

.... Petitioner

vs.

Sh. Prem Kumar Setia

.... Respondent

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. G.S. Sidhu, Advocate for the applicant.

- 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-4195-2016

There is delay of 36 days in filing the present application for grant of leave to appeal.

For the reasons mentioned in the application, delay of 36 days in filing the present application for grant of leave to appeal is condoned, subject to all just exception.

Application stands disposed of.

Main Case

Heard.

This order of mine shall dispose of application filed under Section 378(4) Cr.P.C. for grant of leave to appeal against the judgment dated 30.07.2015 passed by learned Judicial Magistrate 1st Class, Chandigarh. In discharge of partial liability qua the friendly loan, accused issued cheque No.930521, dated 10.09.2012 of ₹2,00,000/- on 10.09.2012. When the cheque was presented to the bank, it was dishonoured with the remarks 'account closed'.

A perusal of lower court judgment shows that the lower court has held that the complainant has failed to prove legally enforceable debt. In the complaint itself, complainant talks about the friendly loan and the cheque issued in discharge of partial liability. However, the complainant does not disclose what was the total friendly loan. Further, there is no proof that there was any loan as claimed by the complainant. In the statement under Section 313 Cr.P.C., the accused had taken the stand that small loans of ₹20,000/- and ₹50,000/- were obtained by him from the complainant and he had to repay ₹24,000/- and ₹60,000/- respectively, which he had paid through the receipts marked as AA and BB.

Since the complainant failed to prove legally enforceable debt, therefore, there is no illegality in the findings recorded by the lower court. Further, it comes out that cheque was allegedly blank and it was filled in by the complainant with his own hand. The lower court held that it was done without any authority of the accused. In this way, it is held that security cheque has been misused. Thus, there is no illegality or infirmity or perversity in the findings recorded by the lower court.

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

May 12, 2016
sarita

(KULDIP SINGH)
JUDGE