

CRM-A-52-MA-2016 (O&M)

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

CRM-A-52-MA-2016 (O&M)

Date of Decision: 28.04.2016

SUKHEN PAL BABUTA

... Applicant

VS.

RAKESH BABUTA

.....Respondent

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH.

Present: Mr. Divanshu Jain, 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)

This order will dispose application filed by the applicant under Section 378 (4) of the Code of Criminal Procedure for grant of leave to appeal.

The complaint filed by the complainant Sukhen Pal Babuta, who happens to be a Chartered Accountant, under Section 138 Act of the Negotiable Instruments, against his brother Rakesh Babuta, who stated to be an Advocate, was dismissed vide orders dated 14.08.2015 passed by the learned Judicial Magistrate Ist Class, Chandigarh. The complainant claimed that he has been paying money to his brother and in discharge of his legal liability accused had issued two cheques; one amounting to ₹ 71,40,567/- and another amounting to ₹ 57,81,367/- both dated 06.03.2013 and drawn at Central Bank of India, Sector-22, Chandigarh. The said cheques were dishonoured for want of sufficient funds.

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The perusal of the judgment of the lower court shows that the notice containing substance of accusation was served upon the accused-Rakesh Babuta on 29.03.2014 and thereafter trial commenced. As many as 8 opportunities were given to the complainant including the last opportunity over a time span of more than one year and four months. The complainant then stopped appearing in Court due to which evidence was closed.

Learned counsel contended that the complainant had gone out of the country that is why he could not appear and therefore, he should be granted one opportunity keeping in view that the amount is very heavy.

I am of the view that a Chartered Accountant cannot stay outside the country for one year and four months for the simple reason that the nature of his profession does not allow him to remain out of the country for such a long period. The lower court had granted sufficient opportunities and the complainant also knew that the amount is heavy but he neither pursue his complaint nor produced any evidence. There has to be some end to the litigation. Therefore, there is no ground to grant further opportunity.

Accordingly, the application for grant to leave is dismissed.

[KULDIP SINGH]
JUDGE

April 28, 2016
Suresh Kumar