

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

CRM-A- 1732 MA-2014O&M)

Date of decision: 05.04.2016

Jai Kishan

.....Applicant

versus

Vinod Kumar

.....Respondent

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.Atul Yadav, 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)

The applicant has impugned judgment dated 16.9.2014, passed by learned Judicial Magistrate 1st Class, Gurgaon, vide which, his complaint under Section 138 of the Negotiable Instruments Act, 1881 was dismissed.

I have heard learned counsel for the applicant and have also carefully gone through the file.

The applicant claims that he had advanced a friendly loan of Rs.15 lacs to the accused for four months. Accused accordingly issued cheque No.894215 dated 25.3.2013 for Rs.15 lacs. The said cheque when presented before the Bank was dishonoured. Lower Court has returned the finding that the complainant neither in his complaint nor in his affidavit has mentioned about the date, time and

place of the advancement o

f the loan. He has also failed to prove the source of money, from which, the huge loan of Rs.15 lacs was advanced, that too in cash. No writing was obtained from the accused regarding receipt of such huge amount. When the complainant was questioned, he took the contradictory stand. He stated that he has sold a plot, from where he got the money. However, he refused to produce document regarding sale of the said plot. He also took a plea that he is retired from BSF and getting pension but no proof regarding same was placed on file. He also stated that he is a property dealer. However, he has not obtained any licence in this regard. Therefore, the lower Court came to the conclusion that the complainant has failed to prove that loan of Rs.15 lacs, as alleged, was advanced, therefore, the cheque was issued in discharge of the legal liability.

There is no illegality or infirmity in the impugned judgment. Hence, the present application for grant of leave to appeal stands dismissed.

05.04.2016

gk

**(Kuldip Singh)
Judge**