IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

CRM-A-1807 MA-2014 (O&M)
Date of decision: 05.05.2016

Rajni

…..Applicant

versus

Charanpreet Singh

……Respondent

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.Nonish Kumar, 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)

Complainant/ applicant Rajni is aggrieved of the judgment dated 6.10.2014, passed by learned Judicial Magistrate 1st Class, Karnal, vide which, her complaint filed under Section 138 of Negotiable Instruments Act, 1881 was dismissed.

Complainant claims that accused is running a company in the name and style of Algulfnet in Yamuna Nagar. On the false assurance of the accused that the depositors will earn heavy interest, the complainant deposited Rs.8 lacs on different dates in the bank account of Jasbir Kaur, mother of the accused. In the first week of August 2011, the complainant required money and approached the accused. The accused accordingly issued a cheque bearing No.045291 dated 20.8.2011 for Rs.8 lacs, drawn at Axis Bank,

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Yamuna Nagar. The said cheque on presentation with the bank was dishonourned for want of sufficient funds.

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

The lower Court has held that from the evidence it comes out that though in the complaint, the complainant claimed that he had deposited the amount on four different occasions in the account of Jasbir Kaur, mother of the accused but during cross-examination, she stated that the amount was paid in cash. The complainant does not have any receipt. If the money is invested in any company, the company normally issues a receipt. In this way, there is no documentary evidence of payment of Rs.8 lacs and there is material contradictions regarding the manner in which, the amount was paid. The lower Court has further held that the complainant claimed that she had borrowed money from her father, who is a shopkeeper. Twice the money was paid by her father in cash and twice by borrowing the same from the Committee of which he was a member. However, father of the complainant was also not examined to state that he had lent the money to her daughter on four different occasions. Normally, if the money is borrowed and then invested somewhere, the investor is conscious about the value of the money and does take the receipt, which was not taken in this case. The complainant has failed to prove before the trial Court that he had paid Rs.8 lacs to the accused and that the cheque was issued in discharge of legal liability. Even in the complaint, it is stated that money was paid to Jasbir Kaur, mother of the accused and not to the accused

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himself.

Learned counsel for the applicant contends that accused admitted his signatures on the cheque but claimed that it was taken by force.

I am of the view that accused is to raise probable defence. When the complainant failed to prove the alleged advancing of money to accused, it cannot be said that the cheque was issued in the discharge of legal liability.

It being so, there is no illegality or infirmity in the findings recorded by learned Judicial Magistrate 1st Class, Karnal. Accordingly, application under Section 378(4) Cr.P.C. for grant of leave to appeal stands dismissed.

05.05.2016 **(Kuldip Singh)**
gk **Judge**

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