

**211-a IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM-A No.238-MA-2014 (O&M)
Date of Decision: April 04, 2016**

Harbans Singh

.... Applicant

vs.

Manmohan Singh and another

.... Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Jagnahar Singh, Advocate for
Mr. S.S. Ranghi, Advocate for the applicant.

Mr. Ashish Sanghi, DAG, Punjab.

- 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 of mine shall dispose of the present application filed under Section 378(4) Cr.P.C. for grant of leave to appeal against the judgment dated 07.05.2013 passed by learned Judicial Magistrate 1st Class, Ludhiana, whereby the complaint filed by the present petitioner under Section 138 of the Negotiable Instruments Act, 1881 was dismissed.

Heard.

The complainant, who happens to be an Advocate, is stated to have advanced loan of ₹3,54,000/- to respondent No.1, who happens to be his client. It is not denied that the complainant as an advocate was handling several civil cases of respondent No.1.

I am of the view that in this case there was fiduciary relationship between the parties. Therefore, there was heavy burden

upon the complainant to prove that he had advanced loan to respondent No.1. The complainant is an advocate by profession. There is no proof that such loan was advanced. The complainant did not obtain any receipt from respondent No.1 nor any other writing from him to prove that the loan was advanced. No source is mentioned from which the money was obtained to advance the loan.

It being so, I am of the view that the lower court was justified in holding that the legal enforceable debt against respondent No.1 is not proved.

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

April 04, 2016
sarita

(KULDIP SINGH)
JUDGE