

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

**CRM-A No.669-MA-2014 (O&M)
Date of Decision: May 10, 2016**

Jindal Retail (India) Private Limited Petitioner

vs.

K.K. Marketing Respondent

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Rose Gupta, 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-13248-2014

There is delay of 37 days in filing the present application for grant of leave to appeal.

For the reasons mentioned in the application, delay of 37 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

As per the case of the applicant, there was an agreement between the parties. Vide agreement dated 15.02.2009, the accused was appointed as its carrying, storing and forwarding agent for Maharashtra. Before, entering into an agreement, the accused had issued two cheques bearing Nos.147763 and 147764 for a sum of Rs.2.5 lac each towards security vide letter dated 15.01.2009.

It is claimed by the complainant that the accused failed to make the payment and had misappropriated the stocks of the complainant lying in its custody worth ₹4,99,579/- as on 24.04.2010. When the accused was confronted with the same, he requested the complainant to present the cheque bearing No.147764 on 29.07.2010 for encashment to the Bank. It was dishonoured with the remarks that the “payment stopped by drawer”.

It comes out that before the lower court, the complainant failed to prove that stock worth ₹4,99,579/- was misappropriated by the accused, for which, the cheque issued as a security was sought to be encashed. The best evidence has been withheld by the complainant. Moreover, the cheque was taken as security.

Therefore, there is no illegality or perversity in the findings recorded by the trial court.

Hence, the application filed under Section 378(4) Cr.P.C. for grant of leave to appeal is dismissed.

May 10, 2016
sarita

(KULDIP SINGH)
JUDGE