

**CRM-12150-2015 in/and
CRM-A-666-MA-2015**

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

232

**CRM-12150-2015 in/and
CRM-A-666-MA-2015
Date of decision : 05.12.2016**

M/S KUBER ENTERPRISES

.....Appellant

versus

AMOD KAPOOR

..... Respondent

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Kuldeep Singh, Advocate for
Mr. Ashish Aggarwal, Advocate
for the applicant-appellant.

AJAY TEWARI, J. (Oral)

CRM-12150-2015

This is an application for condonation of delay of 160 days in
filing the application for granting leave to appeal.

For the reasons recorded in the application, the same is allowed
and delay of 160 days in filing the application for granting leave to appeal
is condoned.

CRM-A-666-MA-2015

This application has been filed for granting leave to appeal

against the acquittal of the respondent in case under Section 138 of the Negotiable Instruments Act.

Learned counsel for the applicant-appellant has argued that appellant firm had secured a friendly loan to the respondent and the respondent in order to discharge his legal debt had issued a cheque bearing No. 877582 dated 03.11.2009 for a sum of Rs. 70,000/- The cheque was dishonoured with the endorsement 'account closed' and hence the complaint.

The trial Court found that applicant was being represented by the special Power of attorney who stated as follows:

I do not have any personal knowledge as to when the loan was advanced to Amodh Kapoor and amount of loan amount. The said fact within the knowledge of complainant firm and not in my knowledge... I do not know as to what amount was advanced to Amodh Kapoor in the present case. I also do not know whether loan amount was paid to Amodh Kapoor in installment and what was the payment of installment. I do not know as to how the alleged loan was paid to Amodh Kapoor. No loan amount was paid to Amodh Kapoor in my presence... I have no knowledge as to whether the financial status of Amodh

Kapoor or not. It is correct that al the fact of complainant within the knowledge of owner... I cannot say if the cheque Ex.C1 is not in the hand of Amodh Kapoor.

This fact was one of the determinant factors which lead the Court to come to the conclusion that loan was not proved. It was the case of the respondent that in fact the cheque issued was a security cheque given to appellant about 10 years prior to the filing of the complaint which has been misused. The Court also found that it was an old cheque and came to the conclusion that case set out by the appellant-complainant was not proved.

I find no reason to take a different view from that taken by the trial Court.

Application for granting leave to appeal stands dismissed.

December 05, 2016
anuradha

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable :

Yes/No