

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

RSA No. 3705 of 2013 (O&M)
Date of Decision : 11.07.2016

Harbhajan Singh

....Appellant

Versus

Gurnam Singh

....Respondent

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Sarabjit Singh, Advocate
for the appellant.

Surinder Gupta, J.

Appellant contested the suit filed by Gurnam Singh (respondent) seeking recovery of ₹1 lac, advanced to him as loan, alongwith ₹36,000/- as interest on the grounds as follows:-

- (i) He never took loan of ₹1 lac.
- (ii) Plea of plaintiff-respondent, that cheque bearing no. 365584 dated 15.01.2006 for a sum of ₹1 lac was issued by the appellant towards repayment of loan but was dishonoured, is false.
- (iii) The appellant had given 20 cheques to one Hardev Singh to deposit the same with the financier, from whom he took the loan for purchasing Indica car, but Hardev Singh deposited only 10 cheques and retained remaining 10 cheques with him out of which he gave two cheques to plaintiff-respondent, who is his friend.

2. Courts below discarded the plea taken by appellant for the reasons that he produced no evidence of purchase of car on loan, giving

of 20 cheques to Hardev Singh or even named the finance company from whom he had taken the loan for purchase of car.

3. Learned counsel for the appellant has argued that plaintiff-respondent had also filed criminal complaint under Section 138 of Negotiable Instrument Act relating to the cheque issued by appellant, which was allegedly dishonoured, in which appellant was acquitted and another suit filed by plaintiff-respondent based on the second cheque was also dismissed.

4. The above submission of learned counsel for the appellant carry no weight as each case is to be decided on the strength of pleadings and evidence produced by parties. Admittedly, there was no evidence regarding acquittal of appellant in the complaint under Section 138 of the Negotiable Instrument Act produced on record in this case or about dismissal of other suit filed by plaintiff-respondent. Even otherwise, judgment in a criminal case is not binding on the civil court and it cannot be made out as to on what reason the other suit filed by plaintiff-respondent was dismissed or whether that judgment has attained finality. When the appellant has raised a specific plea that he had taken car loan from a financier for which he gave 20 cheques to one Hardev Singh, who handed over 10 cheques to financier and retained remaining 10 cheques with him, out of which two cheques were given to plaintiff-respondent, onus was on the appellant to prove above plea but he neither examined Hardev Singh, any witness of finance company from which he allegedly took loan or tendered any evidence to prove that he had purchased Indica car on loan. The cheque of ₹ 1 lac bearing no. 365584 dated 15.01.2006 was

bearing signatures of appellant. Both the Courts below have carefully considered pleas raised by appellant and have rightly discarded the same for want of any evidence.

5. On perusal of judgments of both the Courts below, I find no factual or legal infirmity therein calling for any interference. No substantial question of law, requiring determination arises in this appeal, which has no merit.

Dismissed.

July 11, 2016
jk

(SURINDER GUPTA)
JUDGE