

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

RSA No.2142 of 2016 (O&M)

Date of decision : 08.08.2016

Gurnam Singh

...Appellant

Versus

Yadwinder Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

1. Whether reporters of local newspapers may be allowed to see judgment ?
2. To be referred to reporters or not ?
3. Whether the judgment should be reported in the Digest ?

Present: Mr. Yadvinder Singh Turka, Advocate for the appellant.

AMIT RAWAL, J. (Oral)

The appellant-defendant is aggrieved of the judgment and decree rendered by the lower Appellate Court, whereby suit seeking recovery of amount of ₹68,000/- was dismissed by the trial Court but decreed by the lower Appellate Court.

Mr. Yadvinder Singh Turka, learned counsel appearing on behalf of appellant-defendant submits that respondent-plaintiff instituted a suit for recovery on the basis of pronote and receipt alleged to have been proved through the statement of Amarjit Singh and Karam Singh, PW2 and PW3 who are none else but the colleague of respondent-plaintiff. On the contrary, defendant availed the service of the expert, who gave a report that

the signatures on the pronote and receipt were not his and thus, was able to dispel the genuineness and authenticity of the aforementioned documents, yet the lower Appellate Court ignored the aforementioned facts and decreed the suit by drawing the presumption under Section 118-A of Negotiable Instruments Act.

I have heard learned counsel for the appellant-defendant and appraised the paper book.

It is conceded position on record that suit was instituted on 12.01.2007 which was preceded by legal notice dated 19.05.2006 sent through registered post which carries presumption under Section 27 of the General Clauses Act. If at all there was no truth in the contents of notice, aforementioned, nothing prevented the defendant to react and make a complaint to the police. No such action has been taken. Defence taken in the written statement is an afterthought. No sane person can sit silent in case is befooled/cheated by anyone.

In my view the defendant intentionally did not depose before trial Court as was afraid of ascertaining of the truth. Law with regard to the examination of the expert and appreciation of the report is no longer res integra, for, expert give report in favour of his party engaging him. Defendant has not been able to shatter the cross-examination of the attesting witnesses despite having been subjected to the detailed cross-examination.

I am of the view that findings rendered by the lower Appellate Court being last Court of facts and law is based upon appreciation of the oral and documentary evidence and rightly so, the suit has been decreed.

No ground for interference is made out.

Dismissed.

08.08.2016

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**(AMIT RAWAL)
JUDGE**

Whether speaking/reasoned:- Yes

Whether reportable:- Yes/No