

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

RSA No.4076 of 2016 (O&M)

Date of decision : 12.08.2016

Jai Parkash Chauhan

...Appellant

Versus

Tarsem

...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. Vineet Chaudhary, Advocate for the appellant.

AMIT RAWAL, J. (Oral)

CM No.10510-C of 2016

For the reasons stated in the application, which is duly supported by an affidavit, delay of 261 days in refiling the appeal is condoned.

Application stands allowed.

Main Case

The appellant-defendant is aggrieved of the concurrent findings of fact, whereby suit for recovery of ₹3,00,000/- along with interest @ 6% per annum from the date of filing the suit till the actual realisation by giving three months time to pay the loan, has been decreed.

Mr. Vineet Chaudhary, learned counsel appearing on behalf of appellant-defendant submits that no doubt the suit was based upon the recovery of amount alleged to have been paid vide cheque bearing No.748514 dated 06.04.2006 but that was for security and not for loan. This aspect has not been noticed by the Courts below and presumption under Section 118-A of the Negotiable Instruments Act against the plaintiff has been drawn. The amount aforementioned was returned but the plaintiff did not issue the receipt and became dishonest by instituting the suit. This aspect has not been appreciated and noticed by the Courts below.

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

The encashment of the cheque aforementioned is a matter of record. Once the payment has been made through cheque and if at all payment had been paid in cash, it was incumbent upon the appellant to take receipt. Having failed to take the receipt, presumption has been drawn against him. Keeping in view the aforementioned fact, Courts below have decreed the suit.

I do not intend to differ with the findings rendered by the Courts below, much less, no substantial questions of law arises for determination.

Dismissed.

12.08.2016

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**(AMIT RAWAL)
JUDGE**

Whether speaking/reasoned:-

Yes

Whether reportable:-

Yes/No