

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

RSA No.5510 of 2015 (O&M)

Date of Decision.09.12.2016

Balvikramjit Singh

.....Appellant

Vs

Nirmal Singh

.....Respondent

Present: Mr. Jagjot Singh Lalli, Advocate
for the appellant.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J. (ORAL)

The appellant-defendant is aggrieved by the judgment and decree rendered by the lower Appellate Court whereby the suit seeking recovery of ₹2,71,250/- along with interest has been decreed by holding the aforesaid amount to be recoverable from the appellant-defendant along with interest @12% from the date of payment till decree and @6% thereafter till realization, in essence, the judgment and decree of the trial Court dismissing the suit has been set aside.

Mr. Lalli, learned counsel appearing for the appellant submits that the trial Court after examining the evidence, much less, the cross-examination of the attesting witness of pro note found that it was surrounded by suspicious circumstances. However, the lower Appellate Court has erroneously drawn the presumption under Section 118 of the Negotiable Instruments Act. The appellant-defendant has discharged the onus. The onus was rather on the plaintiff to prove whether actually the amount so stated in the pro note was paid, in essence, no evidence of bank record or statement of account has been brought on record, therefore, the

adverse inference was rightly drawn by the trial Court, thus, there is gross illegality and perversity.

I have heard learned counsel for the appellant-defendant, appraised the paper book and of the view that there is no force and merit in the submissions of Mr. Lalli as nothing prevented the appellant-defendant to examine his disputed signatures from the admitted one by taking the aid of government agency or a private expert. Having failed to do so, the legislatures in their wisdom incorporated the provisions of Section 118 of the Negotiable Instruments Act for deriving presumption against the person in whose favour the pro note has been executed.

In my view, had it been so, suit before the trial Court would have met with the same fate as has been done by the lower Appellate Court, thus, the finding rendered by the lower Appellate Court being last court of fact and law does not call for interference as the same is based upon correct appreciation of documentary as well as oral evidence. No ground for interference is made out. The second appeal is dismissed.

(AMIT RAWAL)
JUDGE

December 09, 2016
Pankaj*

Whether speaking/reasoned Yes

Whether reportable No