

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

**RSA No.4989 of 2014 (O&M)
Date of decision:04.03.2016**

M/s Bhagat and Company, Commission Agents
& another ... Appellants

Vs.

Amar 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. K.B.Raheja, Advocate
for the appellants.

AMIT RAWAL J. (Oral)

C.M.No.11753-C of 2014

For the reasons stated in the application, duly supported
by an affidavit, delay of 81 days in filing the appeal is condoned.

C.M. stands disposed of.

C.M.No.11754-C of 2014

For the reasons stated in the application, duly supported
by an affidavit, delay of 72 days in re-filing the appeal is condoned.

C.M. stands disposed of.

RSA No.4989 of 2014 (O&M)

Learned counsel appearing on behalf of the appellants

submits that trial Court partly decreed the suit for recovery of a sum of ₹1,04,000/- along with interest @ 6% per annum. However, the aforementioned judgment and decree was assailed by the plaintiff and defendant, whereas, appeal of the plaintiff has been dismissed and that of the appellant has been partly allowed. Suit has been decreed vis-a-vis decree of ₹1,04,000/-. He further submits that in the month of June 2005, the respondent-plaintiff had issued a cheque of ₹4 lacs which was dis-honoured and a complaint in this respect was filed. The respondent was convicted under Section 138 of the Negotiable Instruments Act, vide judgment Ex.D-5. Even the suit was filed before the trial Court. The Lower Appellate Court erroneously formed an opinion that transactions of ₹4 lacs is different to the one claimed by the respondent-plaintiff, whereas, it is related to the same transaction, thus, no liability, much less, of the alleged amount sought to be recovered, can be fastened, thus, there is illegality and perversity in the findings rendered by both the Courts below.

I have heard learned counsel for the appellant and appraised the judgments and decrees of the Courts below and of the view that there is no substance in the submissions of Mr. Raheja. In fact, the plaintiff had sought the recovery of Rs.1,04,000/- with regard to the sale of wheat crop on 19.04.2003 through the commission agency of the defendants. The statement of account did not connect the re-payment of amount allegedly paid by the defendant, therefore, rightly so, the Courts below did not relate the alleged transaction.

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Except self serving statement of the appellant, no document/evidence has been placed on record to connect the alleged transaction. Heavy reliance been placed on the cross examination of the respondent-plaintiff, wherein, he had admitted the payment through cheque, but, there is no dispute vis-a-vis transaction and rightly so, the Lower Appellate Court partly allowed the appeal.

In view of the aforementioned observations, I do not intend to differ with the findings rendered by both the Courts below, based upon the appreciation of oral and documentary evidence, much less, no substantial question of law arises for determination of this Court.

Accordingly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

March 04, 2016
savita