

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

**CRM No.7286 and 7287 of 2016 in/and
CRM-A-1019-MA of 2015 (O&M)
Date of decision : February 08, 2017**

Mitterpal Singh

..... Applicant

Versus

Dara Singh

..... Respondent

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. M.S. Randhawa, Advocate for the applicant.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

KULDIP SINGH J. (ORAL)

CRM No.7286 of 2016

Application is allowed as prayed for.

CRM-7287 of 2016

This is an application for restoration of the application for grant of leave to appeal bearing No. CRM-A-1019-MA of 2015, which was dismissed for want of prosecution by this Court on 01.02.2016.

For the reasons mentioned in the application, the application for grant of leave to appeal is restored to its original number and is taken on Board for hearing today.

The application stands disposed of.

Main Case

Arguments heard on the application for grant of leave to appeal.

The applicant had filed a complaint under Section 138/142 of the Negotiable Instruments Act, 1881 against the respondent, claiming that he had advanced a loan of ₹2,50,000/- to the respondent and that for the return of the said loan, accused-respondent had issued a cheque No.346786 on 25.10.2010 and the said cheque was dishonoured by the drawee bank. On the basis of preliminary evidence, the accused-respondent was summoned. Thereafter, the accused-respondent led the evidence. The statement of the accused-respondent under Section 313 Cr.P.C. was recorded and the defence evidence was also adduced.

Thereafter, after hearing the learned counsel for the parties and going through the evidence, the complaint was dismissed by the learned Judicial Magistrate 1st Class, Narnaul vide judgment dated 27.03.2015.

I have heard learned counsel for the applicant and have also carefully gone through the case file.

A perusal of the judgment dated 27.03.2015 passed by the learned Judicial Magistrate 1st Class, Narnaul shows that the complaint was dismissed primarily on the ground that the complainant had not mentioned the date when the loan was advanced. It was held by the learned Magistrate that it was imperative upon the applicant-complainant to prove that on which date the loan was advanced. Secondly, the applicant-complainant admitted before the Court that he is a money-lender and he does not have the licence for the same. He had advanced loan to 2-3 other persons as well. The said loan amount was also not mentioned in the income tax return. The said amount was stated to have been advanced in cash.

In view of the aforesaid, the lower court was justified in

and the cheque was issued for the return of the said loan. Thus, there is no ground to interfere in the findings recorded by the learned Magistrate. The lower court has taken one of the two possible views.

As such, the present application for grant of leave to appeal is dismissed.

**(KULDIP SINGH)
JUDGE**

February 08, 2017

sarita

Whether speaking / reasoned Yes

Whether Reportable: No