

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

**RSA No. 1445-2016 (O&M)
Date of decision : 25.01.2018**

Tun Tun Kumar Gupta

..... Appellant.

Versus

Gurdeep Singh

..... Respondent.

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Ms. Sarika Gupta, Advocate for the appellant.

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)

Impugned in the present regular second appeal is the order dated 29.10.2015, passed by learned Additional District and Sessions Judge, SBS Nagar, affirming the judgment and decree dated 20.11.2014 passed by learned Additional Civil Judge (Sr. Division), SBS Nagar, vide which suit of the plaintiff-respondent was decreed for recovery of ₹ 5.00 lacs along with interest @ 6 % per annum from the date of filing of the suit till its realization on principal amount. Both the parties were directed to bear their own costs.

The short facts, required to be noticed for the purpose of disposal of the present regular second appeal, are that according to the plaintiff-respondent, he is an agriculturist by profession and sells vegetables in the market at Nawanshahar. Defendant-appellant is a fruit and vegetable seller and is running his business for the last more than 7/8 years.

On the request of defendant-appellant, a loan of ₹ 5.00 lac was advanced by plaintiff-respondent to defendant-appellant, which was to be returned on or before 14.2.2006. Defendant-appellant issued a cheque bearing No. 976112 dated 14.2.2006 for an amount ₹ 5.00 lacs. The said cheque was dishonored by the Bank on 16.2.2006 on account of '*insufficient funds*'. Defendant has not repaid the loan.

The stand of the defendant-appellant is that he does not know the plaintiff-appellant. He never raised any loan of ₹ 5.00 lacs from the plaintiff nor he was in need of such a huge amount. Defendant is a small vegetable vendor.

It was further claimed that some blank cheques were given to one Lucky as security for the amount of vegetables which appears to have been misused. From the pleadings, the following issues have been framed by the learned trial Court: -

1. Whether the plaintiff is entitled to the recovery from the defendant, if so, to what extent? OPP
2. Whether the plaintiff has got no locus standi to file the present suit? OPD
3. Relief.

Learned trial Court after examining the evidence of both the parties took the view that the person with the name of Lucky, to whom the defendant-appellant claimed to have issued the cheque for security on account of vegetables, has not been produced. After examining the evidence, it was held that the claim of the plaintiff-respondent has been proved.

Learned counsel for the appellant has argued

that in this case plaintiff had also filed a complaint under Section 138 of

the Negotiable Instruments Act, 1881, which was dismissed by the competent Court and the said judgment has become final. The said contention was discussed by both the learned Courts below and it was observed that the parameters for deciding the criminal case and civil case are different. Therefore, the judgment of the criminal Court is not binding on the Civil Court. However, it was held that the defendant admits to have signed the cheque. He has claimed that he has given the same to one Lucky. The trial Court held that said contention is not proved. Therefore, the case of the plaintiff stand proved.

I am of the view that in this case, no question of law is involved. The case is based on the facts and both the learned Courts below on the basis of facts have come to the conclusion that the claim of the plaintiff-respondent is proved. There is no perversity or misreading of the evidence.

In view of above, I find that there is no ground to interfere in the concurrent findings of the Courts below.

Dismissed.

(KULDIP SINGH)
JUDGE

25.01.2018
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Whether speaking / reasoned
Whether Reportable:

Yes
No