

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

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**RSA No.2538 of 2016 (O&M)
Date of Decision : 17.07.2018**

Jail Singh @ Jarnail Singh

..... Appellant

Versus

Jasbir Singh

..... Respondent

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. A.S.Khinda, Advocate
for the appellant.

AJAY TEWARI, J. (Oral)

This appeal has been filed against the concurrent judgments of the Courts below decreeing a suit for recovery which the respondent had filed on the pleadings that he had advanced an amount of money to the appellant and the appellant had given him a cheque bearing No.739247 dated 11.08.2005 which was dishonoured.

The case of the appellant was that in fact that cheque was from an account which had been closed long back and rather the appellant had lodged a lost report in respect of that cheque. However, strangely the appellant did not appear in the witness box to testify to this fact. The Courts below held that preponderance of probability was in favour of the respondent and consequently decreed the suit and that is why the appeal.

Learned counsel has argued that once it was proved that the appellant had got lodged a lost report the mere fact that he did not appear would not be determinative.

In my considered opinion, however, just as it is possible that actually things transpired the way the appellant is stating, it is equally possible that the appellant having taken the money, & intentionally gave a cheque from a closed account to the respondent. Once that is so, and the appellant did not appear to testify, the Courts can not be faulted in holding the preponderance of probability in favour of the respondent.

Appeal is dismissed.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

(**AJAY TEWARI**)
JUDGE

17.07.2018

Pooja sharma-I

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No