

RSA No.3093 of 2017 (O&M)

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

RSA No.3093 of 2017 (O&M)

Date of decision:02.11.2018

Balbir Singh

... Appellant

Vs.

Ravinderpal Singh

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Deepak Sharma, Advocate for
Mr. Pankaj Bali, Advocate
for the appellant.

AMIT RAWAL J. (Oral)

The appellant-defendant has not been able to defend the suit for recovery of ₹3,92,000/- (₹2,00,000/- as principal amount and ₹1,92,000/- as interest) which was decreed for a sum of ₹2,00,000/- along with interest @9% per annum w.e.f. 06.10.2006 on the premise that defendant had borrowed a sum of ₹2,00,000/- from the plaintiff and out of which ₹1,00,000/- was paid through cheque dated 10.09.2004 and another ₹1,00,000/- was paid in cash and in lieu thereof, defendant executed a writing dated 10.09.2004 in favour of the plaintiff and agreed to pay interest @ 2% per month. Defendant issued two post dated cheques in favour of the plaintiff which were dishonoured on account of “insufficient funds”.

Defendant opposed the suit and denied the issuance of cheques, rather stated that in pursuance to the receipt of legal notice by the plaintiff, the matter was compromised with the intervention of respectable persons.

On the basis of evidence, the trial Court by rejecting the defence of defendant partly decreed the suit and the appeal taken before the Lower Appellate Court at the instance of the defendant was also dismissed.

Learned counsel appearing on behalf of the appellant submitted that plaintiff has examined only two witnesses; PW1 himself and PW2-Harbans Singh. Though the Courts below did not agree with the contention of the plaintiff but partly decreed the suit. In fact, compromise had already been effected between the parties and no amount was due. The plaintiff had agreed to return the blank cheques and blank signed papers to the defendant, but on presentation, the same were dishonoured. The loan was actually for ₹1.00 lakh and not for ₹2.00 lakhs and thus, urged this Court for setting aside the findings under challenge.

I am afraid the aforementioned argument is not sustainable in the eyes of law, for, there is presumption under Section 118 of the Negotiable Instrument Act that issuing of the cheques in favour of a person for discharge of the legal obligation has not been rebutted by leading a direct and cogent evidence, much less the alleged compromise has not seen the light of day. No explanation has come forth how and in what manner the cheques were issued and bore the signatures.

As an upshot of my findings, there is no illegality and perversity in the findings rendered by both the Courts below which are based upon the appreciation of oral and documentary evidence, much less no substantial question of law arises for adjudication of the present appeal.

Resultantly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

November 02, 2018
savita

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No