

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

CRA-AS-142-2018 (O&M)
Date of decision : 30.04.2019

Ram Saran

...Applicant/appellant

Versus

Daljit Kaur

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Anil Mehta, Advocate for
Mr. Pankaj Jain, Advocate for the applicant/appellant.

ANIL KSHETARPAL, J. (ORAL)

Leave to appeal has been sought against the judgment passed by the Chief Judicial Magistrate dated 22.05.2018 dismissing the complaint under Section 138 of the Negotiable Instruments Act.

Learned Court has recorded the following findings:-

“28. The above statement/admission of the complainant casts a very big doubt in the entire matter. It does not appeal to the conscience of this Court that a person would take loan of Rs.1,00,000/- from Commission Agent for further advancing a loan to some other person. It is not the case and the complainant that the accused is the close relative or close friend to whom a person would advance loan by taking loan from someone else.

29. Naryan Dass Commission Agent who had advanced Rs.1,00,000/- to the complainant was the best witness available with the complainant to prove his plea regarding

arranging of Rs.1,00,000/-.

30. Further the complainant has stated that he had arranged the amount of Rs.2,50,000/- by selling the buffaloes. Again no particulars as to whom the buffaloes were sold. Since this aspect of the case of the complainant is not duly proved. In the considered opinion of this Court, the accused has been able to repay the presumption under Section 138 of Negotiable Instruments Act.”

Since, applicant/appellant has failed to disclose the source of the amount which was alleged to have been given to the accused, therefore, there is no ground to grant leave to appeal.

Dismissed.

30.04.2019
Pawan

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned:- **Yes/No**

Whether reportable:- **Yes/No**