IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-A-519-MA-2013(O&M)
Date of Decision :30.09.2019

The Nationalized Bank Employees (SE) Coop. NA Thrift and Credit Society Ltd.

....Appellant

Versus

Om Parkash

...Respondent

CORAM : HON'BLE MR.JUSTICE ANIL KSHETARPAL

Present : Mr.Anshuman Dalal, Advocate for the appellant

Mr. Kulvir Narwal, Advocate for the respondent

ANIL KSHETARPAL, J.(ORAL)

Appeal against judgment of acquittal has been filed by the appellant. Appellant is a Cooperative Credit Society. It claims that a cheque of Rs.1,48,071/- was drawn by the accused in its favour on account of a debt i.e loan transaction. It is undisputed that statement of account of accused has not been produced which was the best evidence in possession of the complainant/appellant. Therefore, the adverse inference has to be drawn against the appellant.

Learned counsel for the appellant submits that transaction of loan is not disputed by the accused. He in the end submit that under Section 139 of the Negotiable Instruments Act, 1881 there was statutory presumption in favour of holder of cheque. No doubt Section 139 does raise a presumption in favour of the holder of cheque, however, the presumption is rebuttable. It is the case of the accused that the entire loan amount has been repaid. Obviously the onus shifted on the complainant to prove that accused was owing any amount to the complainant. As noted above, in the absence of statement of account, the Court has rightly drawn conclusion that the complainant has failed to prove its case.

Hence, dismissed.

(ANIL KSHETARPAL)
JUDGE

30.09.2019
rekha

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No