

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

**CRM-A-1645-MA-2016 (O&M)
Date of Decision:03.12.2019**

Bal Krishan

...Appellant

Versus

State of Punjab and another

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr.Saurabh Kaushik, Advocate for the appellant.
Mr.SPS Tinna, Addl. Advocate General, Punjab.
Mr.Harish Goyal, Advocate for respondent No.2.

ANIL KSHETARPAL, J.

CRM-28490-2016

For the reasons stated in the application, which is supported by an affidavit, delay of 5 days in filing the appeal is condoned.

CRM stands disposed of.

Main case

Special leave to appeal has been sought against the judgment of acquittal passed by the learned Judicial Magistrate while dismissing the complaint under Section 138 of the Negotiable Instrument Act, 1881.

On dishonour of a cheque amounting of Rs.40,000/-, present complaint was filed. The learned Judicial Magistrate, while appreciating the evidence, has found that apart from the cheque in question to prove the alleged loan, no document has been produced. Further in cross-examination, the complainant-appellant has admitted that he has filed 10 to 20 cases for recovery of the loan amount, which are pending in the courts. The court has also found that no account book to prove the loan

transactions has been produced. Once the complainant is in the business of lending money, onus on the complainant was much more stringent. He was required to prove that the cheque in question was issued for recoverable debt or other liability. In the present case, the appellant has failed to prove that fact.

The learned Magistrate, on appreciation of evidence, has drawn a reasonable and probable conclusion which is not shown to be suffering from any substantive error or perversity. Hence, no ground to grant leave to appeal is made out.

Dismissed.

03.12.2019
mks

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No