

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-A 1905-MA-2018 (O&M)

Date of decision : 29.01.2019

Neena Kapoor

.....Applicant

Versus

Naveen Gupta

..... Respondent

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr.S.S.Rangi, Advocate with
Mr.S.S.Dhaliwal, Advocate for the applicant

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

KULDIP SINGH J. (Oral)

This order will dispose of an application filed under Section 378(4) Cr.P.C. for grant of leave to appeal against judgment 18.5.2018 passed by learned Judicial Magistrate 1st Class, Ludhiana, vide which, complaint filed by the present applicant under Section 138 of Negotiable Instruments Act, 1881 was dismissed.

Heard.

In the complaint, the complainant claims that he is running business in the name and style of M/s Khushboo Yarn, Village Bhattian, Outside Octroi Post, Ludhiana as its sole proprietor. Accused is sole Proprietor of M/s Shri Enterprises and purchased knitted cloth from the complainant vide different invoices from C-1 to C5 of Rs.11,36,399/-. To discharge the said liability, he issued cheque bearing no.000168 dated 9.4.2015 for an amount of Rs.10,00,000/- drawn on Bank of Baroda, SSI,

Ludhiana. The cheque when presented was returned with the remarks “Account closed”.

A perusal of the judgment shows that it had come in the evidence that accused sold his factory in February 2015. Agreement to sell was executed on 30.10.2014. Present complainant was witness in the said agreement. Therefore, he knew in the year 2014 that accused had sold his factory, therefore, he is unlikely to supply any material to the said factory. Said invoices C1 to C5 are in the name of factory, which was already sold. Further, in cross-examination he admitted that against the goods supplied on 20.3.2017, he had received three cheques for Rs.10,00,000/- each. Present cheque No.000168 is found to be one of those cheques. It destroys the entire case of the applicant that he had supplied certain goods through invoices C1 to C5 on 9.4.2015 and that the payment was against those cheques.

In view of the matter, this Court does not find any illegality or infirmity in the judgment passed by learned Judicial Magistrate 1st Class, Ludhiana.

Hence, application for grant of leave to appeal is dismissed.

29.01.2019
gk

(Kuldip Singh)
Judge

Whether speaking/ reasoned:	Yes
Whether Reportable:	No