

CRM-33208-2018 in/and
CRM-A-1996-MA-2018(O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-33208-2018 in/and
CRM-A-1996-MA-2018(O&M)
Date of Order:11.04.2019

Neeru

..Petitioner

Versus

Chandana Khara and another

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: None.

ANIL KSHETARPAL, J(Oral)

Counsel through whom the petition was filed has not chosen to appear since 27.08.2018. Daily orders for last 3 dates of hearings bear testimony to the same. Hence, this court has left with no choice but have to read and decide.

Application for leave to appeal has been filed against the judgment passed by the learned Judicial Magistrate, dismissing the complaint. Learned trial court has recorded following reasons:-

“16. Perusal of file reveals that there is no document on record to prove the fact that complainant has ever placed any order for purchasing gold items. Further the complainant has failed to place on record any document to show that any amount of Rs.1,20,000/- was arranged by complainant which is alleged to be given to the accused. Further in her cross-examination,

complainant admitted that she had not taken any receipt of Rs.1,20,000/- given to the husband of the accused as well as to accused. Further, complainant in her cross-examination has stated that she knew only some facts of his affidavit Ex.CW1/A. She further stated that she did not know who filled the particulars and signed the alleged cheque. Further, in her cross-examination, complainant has contended that she had given an amount of Rs.1,20,000/- to accused in presence of his colleague namely Binder resident of Badheri but said Binder has not been examined by the complainant. Further, complainant in her complaint has contended that accused were in business of making and selling gold jewellery at SCO No.18, Village Badheri, Sector 41, Chandigarh but there is nothing on record to prove this fact that accused were in business of selling gold jewelery. Further, this version of complainant is not believable that an amount of Rs.1,20,000/- was given by her to accused without any receipt as it was huge amount and no person of ordinary prudence will give such a huge amount without any receipt. In this way, the complainant has failed to prove that there was any legal enforceable debt due against the accused.

17. In view of discussion made above, the complainant has miserably failed to prove that there existed a legally enforceable debt and liability against

the accused, and in order to discharge the said liability, the cheque in question has been issued. In view of the above discussed position of law, this court is of the considered opinion that no offence under Section 138 of NI Act is made out against the accused.”

On reading of the grounds of appeal and the application for leave to appeal, it is apparent that the petitioner has failed to point out any perversity or substantive error in the judgment passed.

Hence, leave to appeal is declined.

April 11, 2019
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(ANIL KSHETARPAL)
JUDGE

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