

CRM-A-1549-MA-2017

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

CRM-A-1549-MA-2017 (O & M)

Date of Decision: 02.12.2019

Supreme Mobiles Limited

... Applicant

Versus

Jeet Bahadur

... Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. K.S.Khaira, Advocate for
for the applicant.

HARNARESH SINGH GILL, J.

CRM-23611-2017

This is an application under Section 5 of the Limitation Act for condonation of delay of 11 days in filing the application seeking special leave to appeal.

As per the learned counsel for the applicant, the delay of 11 days in filing the application, seeking special leave to appeal, had occurred due to miscalculation of days done by his clerk, which is not intentional. The application is duly supported with an affidavit.

Keeping in view the above facts, the present application is allowed and the delay of 11 days in filing the application seeking special leave to appeal, is condoned.

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Special leave to appeal has been sought against the judgment of

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acquittal passed by the learned Judicial Magistrate Ist Class, Hisar, while dismissing the complaint under Section 138 of the Negotiable Instruments Act, 1881.

Proceedings were initiated on dishonour of cheque bearing No.112022 dated 29.08.2013 amounting to Rs.44,650/- drawn on Canara Bank, Hisar.

The learned Judicial Magistrate Ist Class, Hisar, has recorded the following reasons to dismiss the complaint:

- (i) The complainant has placed on record memorandum and article of association Ex.P-1, wherein it has nowhere been mentioned that the complainant is competent to give advance or loans to any person or public.
- (ii) The complainant is illegally advancing the loans, which is not legally recoverable debt. If the complainant advances the loans, then he should have obtained money lending licence, but the complainant has not placed on record the same.
- (iii) The complainant has placed on record vouchers Ex.P-7 to P-23, but the same have not been entered by the complainant in the statement of account, which shows that the statement of account has been prepared as per the convenience and interest of the complainant-company.
- (iv) The debt/liability of the accused/drawer of the cheque was not a legal enforceable debt/liability.

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The learned Magistrate has taken a reasonable and probable view on appreciation of evidence.

Learned counsel for the applicant, although, made sincere attempt, however, failed to draw the attention of this Court to any substantive error or perversity. Still further, the reasons which have been extracted above, appear to be probable and plausible.

From the above, I do not find any ground to grant special leave to appeal. Therefore, finding no merit in the present application, the same is dismissed.

02.12.2019
parveen kumar

(HARNARESH SINGH GILL)
JUDGE

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