

CRM-A-2372-MA-2016

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

CRM-A-2372-MA-2016(O & M)

Date of Decision: 02.12.2019

M/s P.P. Marketing & Services Pvt. Ltd.

... Applicant

Versus

Goyal Gift Centre

... Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Yashjot S. Dhaliwal, Advocate,
for the applicant.

HARNARESH SINGH GILL, J.

CRM-41074-2016

This is an application under Section 5 of the Limitation Act for condonation of delay of 09 days in filing the application seeking special leave to appeal.

It is mentioned in the application that certified copy of the judgment of the trial Court alongwith other documents was supplied to the Clerk of the counsel in the High Court, but somehow the same were misplaced. The application is duly supported with an affidavit.

Keeping in view the above facts, the present application is allowed and the delay of 09 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, Ludhiana, while dismissing the complaint under Section 138 of the Negotiable Instruments Act, 1881.

Proceedings were initiated on dishonour of cheque bearing No.182668 dated 09.07.2013 for an amount of Rs.4 lakh drawn on UCO Bank, Chaura Bazar, Ludhiana.

The learned Judicial Magistrate has recorded the following reasons to dismiss the complaint:

- (i) The complainant has not proved on record the bill through which the goods were supplied to the accused and it is admitted that neither in the complaint nor in the affidavit (Ex.CA), this fact has been mentioned.
- (ii) The complainant has admitted during his cross-examination that Ex.C4 i.e. alleged account statement/ledger is not stamped or signed by any authorized person.
- (iii) The account statement is computer generated record produced on record by the complainant, but he has not examined the person by whom that document was prepared.
- (iv) There is no record or document regarding receiving of alleged goods by the accused.
- (v) The complainant has further failed to prove that his firm is distributor of the Samsung Mobiles.

The learned Magistrate has taken a reasonable and probable

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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