

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

113

CRM-A-328-MA-2016(O&M)

Date of Order: 21.11.2019

GOPAL TRADING COMPANY

..Appellant

Versus

JASWINDER SINGH

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Ms. Puja Chopra, Advocate
for the petitioner.

ANIL KSHETARPAL, J(Oral)

Special leave to appeal has been sought against the judgment of acquittal while dismissing the complaint under Section 138 of the Negotiable Instruments Act.

The appellant is a commission agent, whereas accused is a farmer. It is alleged by the appellant that in discharge of due and payable liability, farmer issued a cheque dated 13.01.2012 for Rs.1,50,000/-. The learned Judicial Magistrate after considering the various aspects of the case, returned a finding that presumption in favour of holder of a cheque stands rebutted as the proprietor of the appellant-firm was the proposer in the bank account opened by the accused-respondent. The Court has also noticed that the appellant-firm refused to produce 'roznamcha' or 'bahi' entries to establish that the amount was due. Along with the appeal, an application for production of ledger in additional evidence has been filed.

This court has examined the copy of ledger which has been produced. It is apparent that the alleged signatures of Jaswinder Singh-respondent are on entry of Rs.1,33,300/- of the year 2009. Thereafter, various entries have been made upto 2012, but none of the entry is signed

by respondent-Jaswinder Singh.

In the considered view of this court, such ledger which does not bear the signatures of the respondent cannot even *prima facie* establish that the respondent had due and payable liability of Rs.1,50,000/-

Hence, application for additional evidence as well as application for special leave to appeal are dismissed.

November 21, 2019
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

: Yes/No
: Yes/No