

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-A-566-MA-2018(O&M)

Date of decision: 10.12.2019

Binny Dheer

.....Appellant

Versus

Chiranji Lal

.....Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. S.K.Verma, Advocate for the appellant

ANIL KSHETARPAL, J. (ORAL)

Leave to appeal has been sought against judgment of acquittal passed by learned Judicial Magistrate First Class while dismissing the complaint under Section 138 of the Negotiable Instruments Act, 1881, filed on dishonour of the cheque No.294440 dated 5.9.2013 amounting to Rs. 2 lacs.

Learned Judicial Magistrate on appreciation of evidence has found that appellant has failed to prove that the amount of Rs.2 lacs was advanced as a friendly loan to the respondent. The Court has found that on the basis of the defence evidence led by the accused, he has successfully rebutted the presumption by preponderance of evidence. Thus, the onus shifts back on the appellant/complainant to prove his case beyond shadow of reasonable doubt. In the present case, learned Judicial Magistrate has found that appellant had failed to discharge the aforesaid onus. Still further it has come in evidence that there is no document evidencing advancement of alleged friendly loan. Further, it is the case of the complainant-appellant

that the amount was given on an interest at the rate of 18 % per annum.

However, the cheque in question does not include the aforesaid interest.

Therefore, the case set up by the prosecution becomes doubtful.

Learned counsel for the appellant, although made sincere attempt, however, failed to draw attention of the Court to any substantive error or perversity. Hence, no ground to grant leave to appeal is made out.

Dismissed.

10.12. 2019

rekha

Whether speaking/reasoned

Whether Reportable

(ANIL KSHETARPAL)

JUDGE

Yes / No

Yes / No