

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-A-1656-MA-2015
Date of Decision: 22.05.2019

Ramesh Kumari

...Petitioner

Versus

Anita

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Ms. Amandip Kaur, Advocate for the applicant.

ANIL KSHETARPAL, J.

Leave to appeal has been sought against the judgment dated 24.07.2015, dismissing the complaint filed under Section 138 of the Negotiable Instruments Act, 1881 (for short 'the Act of 1881) read with Sections 420 and 406 of the Indian Penal Code.

This Court has heard learned counsel for the applicant at length and with her able assistance gone through the judgment passed by the learned trial court.

It is fundamental that mere dishonour of a cheque drawn is not sufficient to attract penal provisions of the Act of 1881. There is further requirement that within the specified time, a demand notice is to be issued, intimating the drawer of the cheque about dishonour thereof and call upon him to make the payment. In this case, the complainant-applicant failed to disclose that when notice as envisaged under Section 138 of the Act of 1881 was sent to the accused.

Learned trial court has found that the complainant has failed to prove date of service of notice. Although, it is the case of the complainant

that a reply was sent by the accused Anita through her counsel Shri K.S.Ghuman, Advocate, however, neither the aforesaid reply has been proved nor the aforesaid alleged reply bears any date of issuance. Official from the Post Office has also not been examined to prove that it was actually issued by the accused. The counsel who had sent the alleged reply has also not been examined.

In view thereof, this Court does not find any good ground to grant leave to appeal. Hence, the present application is dismissed.

22.05.2019
mks

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No