

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

CRM-A-1731-MA-2014 (O&M)

Date of decision : 06.05.2019

Gopal Dass

...Applicant/appellant

Versus

Smt. Sheela

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Raj Kapoor Malik, Advocate for the applicant/appellant.

ANIL KSHETARPAL, J. (ORAL)

CRM No.34593 of 2014

For the reasons stated in the application, which is duly supported by an affidavit, delay of 24 days in filing the present appeal is condoned.

Application is allowed.

Main

Leave to appeal has been sought against the judgment passed by the learned trial Court dismissing the complaint filed under Section 138 of the Negotiable Instruments Act, 1881.

Learned trial Court after appreciating the evidence has found that the presumption under the Negotiable Instruments Act, 1881 stands rebutted and the appellant has failed to prove his capacity to pay.

In the present case, appellant claims that he gave amount of

₹1,50,000/- on loan to the respondent and in lieu thereof, a cheque of ₹1,50,000/- was signed and given to the appellant but thereafter ₹50,000/- was paid and fresh cheque of ₹1,00,000/- was given. Appellant has not supplied any particulars of the cheque of ₹1,50,000/- which was in possession of the appellant, although now the counsel has come up with plea that it has been returned. Still further, appellant has failed to produce any member of Panchayat in the presence of whom the cheque in question was handed over to the appellant. Appellant has also failed to state as to who had filled the cheque.

In view of the aforesaid reasons, this Court does not find any good ground to grant leave to file appeal.

Dismissed.

06.05.2019

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No