

CRM-A-743-MA of 2016

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

CRM-A-743-MA of 2016
Date of Decision: 23.01.2019

Lakhwinder Singh

...Applicant

Versus

M/s Welkin Sales & Marketing and another

....Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present:- Mr. Peeush Gagneja, Advocate, for the applicant.

RAMENDRA JAIN, J. (ORAL)

Through instant application under Section 378(4) Cr.P.C. applicant-complainant has sought leave to file appeal against impugned judgment dated 28.02.2017 of the learned Judicial Magistrate Ist Class, Abohar, whereby his complaint under Section 138 of the Negotiable Instruments Act (for short the 'Act') has been dismissed.

In nutshell, applicant filed a complaint under Section 138 of the Act against the respondents on the allegations that deceased Vimal Soni and respondent No.2 were partners in respondent No.1 firm in the ratio of 95:5. Deceased Vimal Soni issued a cheque of ₹25,00,000/- of Axis Bank Ltd., Branch Abohar, in the name of applicant against advancement of loan by the applicant to him and respondent No.2 to run respondent No.1 firm. However, neither respondent No.1 nor respondent No.2 returned the cheque amount after the death of Vimal Soni, though they were legally bound to pay the same. After holding trial, trial Court dismissed the complaint of the

CRM-A-743-MA of 2016

applicant vide impugned judgment dated 28.02.2017.

Learned counsel for the applicant *inter alia* contends that since deceased Vimal Soni and respondent No.2 were advanced loan by the applicant to run respondent No.1 firm in partnership, therefore, respondent No.2 was equally responsible to pay the entire borrowed amount after the death of his partner Vimal Soni.

Having given anxious consideration to the above submissions, this Court finds the instant application completely devoid of any merit for the reasons to follow.

Admittedly, the cheque in question Ex.C1 was not signed by respondent No.2 nor by respondent No.1 firm. It was only signed by deceased Vimal Soni. Therefore, for a cheque signed by a third person, respondents cannot be put to trial. Therefore, impugned complaint filed by the applicant against the respondents for a cheque which was signed by a third person, has rightly been dismissed by the trial Court.

I have gone through the impugned judgment and find no illegality or perversity in the same.

Dismissed.

January 23, 2019
R.S.

(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No