

CRM-A-1826-2019

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

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Date of Decision: 07.12.2019

Sanjeev Kumar

... Applicant

Versus

Girish Prasad

... Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Bhupander Ghanghas, Advocate,
for the applicant.

HARNARESH SINGH GILL, J.

Special leave to appeal has been sought against the judgment of acquittal passed by the learned Judicial Magistrate Ist Class, Gurugram, while dismissing the complaint under Sections 138/141 of the Negotiable Instruments Act, 1881 (for brevity, 'N.I.Act').

Proceedings were initiated on dishonour of cheque bearing No.925561 dated 07.10.2015 amounting to Rs.1,80,000/- drawn on State Bank of Hyderabad, Branch at Sector 14, Gurugram.

The learned Judicial Magistrate Ist Class, Gurugram, has recorded the following reasons to dismiss the complaint:

- (i) The complainant has failed to disclose his source of income. No written agreement or promissory note was executed against the alleged loan in question. The complainant is not in possession of any receipt against the alleged advancement of loan in question except the cheque.

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- (ii) The complainant did not examine any independent witness to substantiate his claim.
- (iii) The accused has been able to rebut the presumption under Sections 118 and 139 of the N.I.Act.
- (iv) The complainant had failed to disclose the date as to when the loan amount was advanced to the accused.
- (v) The accused has rebutted the presumption regarding the legally enforceable debt or liability.

The learned Magistrate has taken a reasonable and probable view on appreciation of evidence.

Learned counsel for the applicant, although, made sincere attempt, however, failed to draw the attention of this Court to any substantive error or perversity. Still further, the reasons which have been extracted above, appear to be probable and plausible.

From the above, I do not find any ground to grant special leave to appeal. Therefore, finding no merit in the present application, the same is dismissed.

07.12.2019
parveen kumar

(HARNARESH SINGH GILL)
JUDGE

Note: Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No