

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-A-1226-2019(O&M)

Date of decision: 13.12.2019

M/s Malkit Poultry Feed Store

.....Appellant

Versus

Harjinder Singh

.....Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr.A.S.Manaise, Advocate for the appellant

ANIL KSHETARPAL, J. (ORAL)

Leave to appeal has been sought against the judgment of acquittal passed by learned Judicial Magistrate First Class while dismissing the complaint under Section 138 of the Negotiable Instruments Act, 1881 on dishonour of cheque amounting to Rs.7,45,500/- dated 31.5.2017. It is the case of the complainant that he is trader of poultry feed and the respondent owns a poultry farm and the cheque in question was issued for discharge of liability on account of supply of poultry feed.

On the other hand, respondent took a stand that this was only a blank signed cheque issued as a security and there is no business transaction between the parties after November, 2015.

When Malkiat Singh-appellant appeared in evidence, although he had stated that he had supplied feed to the accused in the financial year 2016-17 but he did not remember the month when the feed was supplied.

He has not even brought his account statement. He did not even state that

he can produce the same on the next date of hearing. Further in cross-examination, appellant admitted that he used to deliver poultry feed to the customers on hired vehicles alongwith bill/receipt of the feed. But surprisingly, neither any account books have been produced nor bills or receipts proving dispatch or receipts of the material have been produced. The learned Judicial Magistrate on appreciation of evidence has drawn a probable conclusion. The jurisdiction of the Appellate Court while hearing leave to appeal is limited and the judgment passed by the Trial Court acquitting the accused cannot be reversed, in the absence of any substantive error or perversity in the judgment.

There is application bearing CRM-19952-2019 filed for permission to lead additional evidence under Section 319 Cr.P.C.

Through the present application, appellant wishes to bring on record certain bills/cash memos. A bare look at the aforesaid bills/ cash memos proves that these bills are of the years 2014-15. Appellant while appearing in witness box has stated that there are transactions in the financial year 2016-17, however, no document of the aforesaid period has been produced. Respondent does not dispute transactions upto November, 2015. However, he submits that there is no transaction/dealing after 2014-15. Even now no account books have been produced for the financial year 2016-17. In view thereof, even if the documents sought produced as additional documents are taken into consideration, it would not advance the case of the appellant. Hence, CRM stands dismissed.

Learned counsel for the appellant, although made sincere attempt but failed to draw attention of the Court to any substantive error or perversity in the judgment. Hence, leave to appeal is declined.

There is another application for condonation of delay of 130 days i.e CRM-19951-2019, in filing the appeal, on the ground that appellant wrongly filed appeal before the Court of Sessions. In view thereof, the delay of 130 days is condoned.

13.12. 2019	(ANIL KSHETARPAL)
rekha	JUDGE
Whether speaking/reasoned	Yes / No
Whether Reportable	Yes / No