

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-A-1702-2019(O&M)

Date of decision: 19.11.2019

Rajinder Parshad

.....Appellant

Versus

Shri Pranav Jah

.....Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr.Ravindra Jain, Advocate for the appellant

ANIL KSHETARPAL, J. (ORAL)

Special leave to appeal has been sought against judgment passed by learned Judicial Magistrate dismissing the criminal complaint under Section 138 of Negotiable Instruments Act. Learned Magistrate has recorded following findings of fact:-

“It is to be seen that it is established on record that the complainant was an employee of the accused. The complainant has admitted so in his cross-examination wherein he has pleaded that Pranav Jha owned the Courier Service and he was earlier working as a delivery boy and later on working as office incharge for a salary of Rs.8000/- with the accused. The defence's version in this case is that his cheques were lying in the office and the same have been mis-used by the complainant. Even this fact is admitted by the complainant in his cross-examination. It is also

established on record that the accused did not pay salary of the complainant from April 2015 to September 2015 and in this regard the complainant had moved an application against him in the Court of Labour Commissioner. In the backdrop of these circumstances, the version of the complainant that on 14.10.2015 the accused issued the cheque in question to him is not sustainable. It is stated that it is highly improbable that the accused who is the employer of the complainant would first of all obtain a loan from him, the complainant himself drawing a salary of a mere Rs.8000/- per month. The complainant stated that the amount was lying with him at his house. Again, it is hard to believe that a person sustaining himself on a salary of Rs.8000/- in these times of skyrocketing prices had such an amount lying with him at home. From Ex.D3 to Ex. D4 it is made out that complainant had also advanced Rs.1,00,000/- and Rs.1,25,000/- to one Surinderjit Singh in the year 2013 and onwards. Again the complainant has failed to satisfy the Court regarding his financial capacity to advance such high amount of money to these persons.

17. Moreover, even the version of the complainant that after not paying the salary of the accused for six months, the accused handed over cheque dated 14.10.2015 to the complainant is not probable. In

fact even in his complaint to the Labour Commissioner nothing of sort has been mentioned by the complainant. In such circumstances, the defence of the accused that the cheque in question being lying in his office to which the complainant had free access and the possibility of it being misused is more probable.”

This Court has heard learned counsel for the appellant and with his able assistance has gone through the paper book. Learned counsel for the appellant has read over cross-examination of complainant to the Court. On hearing the aforesaid cross-examination, this Court does not find that the findings arrived at by the learned Magistrate suffer from any perversity or substantive error.

Hence, dismissed.

19.11. 2019

rekha

Whether speaking/reasoned

Whether Reportable

(ANIL KSHETARPAL)

JUDGE

Yes / No

Yes / No