

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

**RSA No.358 of 2016 (O&M)
Date of Decision.20.03.2019**

The Shri Krishan Labour & Construction Society and others
...Appellants

Vs

Om Parkash
...Respondent

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Abhishek Yadav, Advocate
for the appellants.

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AMIT RAWAL J. (ORAL)

The appellants-defendants are in regular second appeal against the concurrent finding of fact whereby suit of the respondent-plaintiff for recovery of ₹4,10,000/- has been decreed against the defendants by discharging liability jointly and severally.

It was pleaded that office-bearers are the real brothers and intimate friends of the plaintiff. In the month of June, 2008, defendants No.2 and 3, managing officials of defendant No.1-Society required money for making payment to the labourers and approached for arranging a sum of ₹4,10,000/-. Defendants No.2 and 3 verbally agreed to pay the money within a short period. On 28.10.2008, defendants No.2 and 3 issued a cheque bearing No.125283 dated 28.10.2008 for a sum of ₹4,10,000/- under their signatures and stamp of society but on presentation, it was dishonoured on account of remarks 'insufficient funds'.

Defendants opposed the suit and pleaded that disputed

cheque was issued by the defendants to one Ram Kishan son of Ram Partap, an employee of the society for an amount of ₹1,10,000/- and plaintiff is none else but the relative of Ram Kishan. There was no transaction between the plaintiff and defendants. Ram Kishan misused the amount in collusion with the plaintiff.

Plaintiff in support of the evidence examined three witnesses i.e. PW1 himself, PW2 clerk from the Central Cooperative Bank, Rewari, PW3 Jaibir Singh Yadav and brought on record various documents. On the other hand, defendants examined DW1 Ved Parkash, DW2 Sube Shyam and DW3 Ramanuj, Addl. Ahlamad to CJM, Rewari regarding the criminal case initiated against Ram Kishan and others and brought on record various documents.

Mr. Yadav, learned counsel appearing on behalf of the appellant submitted that once there was a misuse of the cheque issued of ₹1,10,000/- paid by the Society to the Ram Kishan, relative of the plaintiff, plaintiff miserably failed to discharge onus with regard to extension of loan of ₹4,10,000/-.

I am afraid aforementioned argument is not sustainable as both transactions are different. It is a matter of record that defendant No.2 and 3 in discharge of the liability issued a cheque of ₹4,10,000/- on 28.10.2008, which on presentation was dishonored. No cogent or reasonable, much less, substantial explanation has come forth for issuing cheque in favour of the plaintiff.

In view of aforementioned circumstances, I do not find any illegality and perversity in the concurrent finding of fact and law arrived at by the Courts below, much less, no substantial question of

law arises for determination by this Court. No ground for interference is made out. Resultantly, the second appeal is dismissed.

(AMIT RAWAL)
JUDGE

March 20, 2019

Pankaj*

Whether Reasoned/Speaking Yes

Whether Reportable No