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

**CRM-A-449-2019 (O&M)**
**Date of Order:02.07.2019**

**M/s Shri Bhawani Handloom**

**..Appellant**

**Versus**

**Vijay Garg**

**..Respondent**

**CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL**

Present: Mr. Aman Dhir, Advocate
for the appellant.

**ANIL KSHETARPAL, J(Oral)**

***CRM-4761-2019***

Application for permission to lead additional evidence has been filed.

Through the additional evidence the complainant-appellant-firm wishes to produce on record copy of the income tax return for the assessment year 2016-2017 with respect to year ending on 31.03.2016 as also copy of judgment passed against the accused lodged by different complaints under Section 138 of the Negotiable Instrument Act, 1881, convicting the respondent. The documents which are sought to be produced even if considered does not improve the case of the appellant because the income tax record which is sought to be produced are the accounts maintained by the complainant-firm. Still further the conviction of the respondent in a different case and not between the parties which cannot be relied upon by the complainant to draw a presumption against the respondent.

In view thereof, the application stands disposed of.

***MAIN***

Leave to appeal has been sought against the judgment of acquittal passed by learned Judicial Magistrate Ist Class, Panipat. Learned Court has given 3 reasons to dismiss the complaint:-

(1) The invoice/original bill book produced by the complainant was blank. There was only one invoice issued in November, 2015, which was bearing Sr. No.1. It has been found that it is not the case of the complainant that he used different bill books during the relevant financial year.

(2) The invoice Ex.C7 shows that the goods were allegedly dispatched through handcart, whereas in evidence complainant has stated that it was dispatched through tractor-trolley. The driver of the tractor-trolley has also not been examined.

(3) It is admitted case of the complainant that he never filed a suit for recovery of the amount of cheque in question or remaining amount.

Still further it has come in evidence that the accused did not collect the material after placing the order but it is the case of the complainant that the material/goods were sent through driver of the tractor-trolley, who had collected the cheque. However, no receipt of the material received by the respondent has been produced.

In view thereof, there is no ground to grant relief to file the appeal.

The present petition is dismissed.

**July 02, 2019** **(ANIL KSHETARPAL)**
**nt** **JUDGE**

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