

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

CRM-A-772-MA-2018 (O&M)
and other connected cases
Date of decision : 15.11.2019

M/s Uttam Milk Products

...Applicant/appellant

Versus

Maqsood @ Pappi

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Gourav Bhayya Gilhotra, Advocate
for the applicant/appellant
(In all the cases)

ANIL KSHETARPAL, J. (ORAL)

By this order, nine applications for grant of special leave to appeal bearing CRM-A-772-MA-2018, CRM-A-962-MA-2018, CRM-A-1010-MA-2018, CRM-A-1190-MA-2018, CRM-A-1470-MA-2018, CRM-A-1543-MA-2018, CRM-A-2279-MA-2018, CRM-A-1559-MA-2018 and CRM-A-1887-MA-2018, shall stand disposed of.

CRM-14541-2018 in CRM-A-772-MA-2018

For the reasons stated in the application, which is duly supported by an affidavit, delay of 1350 days in filing the appeal is condoned.

Application is allowed.

Main cases

Application seeking review of order of compounding passed in appeal against the order of conviction under Section 138 of the Negotiable

Instruments Act, 1881, has been dismissed by the learned Court of Sessions.

Some facts are required to be noticed.

As many as 9 complaints have been filed by the appellant herein under Sections 138 of the Negotiable Instruments Act, resulting in conviction of the respondent, against which, respondent herein filed an appeal. During the pendency of the appeal, parties entered into a settlement and got the appeal disposed of by compounding the offence vide judgment dated 05.05.2014. As per the terms of compromise, respondent had paid a sum of ₹3,00,000/- on signing of compromise and had agreed to supply paneer (cheese) worth ₹5,00,000/- and transfer a plot measuring 300 square yards situated at Bisru Road, Punhana in favour of the appellant. Appellant filed an application for revival of the appeals on the ground that the respondent has failed to comply with the terms of the settlement.

On notice, reply was filed and it was pleaded that the terms of settlement have been complied with as the respondent had already supplied paneer (cheese) for a sum for ₹5,00,000/- and had also given a sum of ₹7,00,000/- to the appellant after the settlement dated 12.05.2014. It was further pleaded that when brother-in-law of the respondent refuses to transfer the plot, respondent paid a sum of ₹10,00,000/- towards the price of the plot in cash.

Learned Court after taking note of provision of Section 362 of Cr.P.C. and in the facts of the case, refused to order the revival of the appeal.

This Court has heard learned counsel for the appellant at length

and with his able assistance gone through the paper book.

In the considered view of this Court, impugned order passed by the learned Court of Sessions does not require interference for the following reasons:-

- i) As per the terms of settlement and the order passed permitting compounding, there was no provision for revival of the appeal in the eventuality of default.
- ii) As per case setup in the reply, respondent has complied with the terms of settlement. While entertaining the application for review/recalling/revival, it would not be appropriate for the Court to enter into the disputed questions of fact. Appellant has remedy of enforcing the aforesaid agreement/settlement in accordance with law while contending that such settlement has not been complied with.
- iii) Section 362 Cr.P.C. bars the jurisdiction of the Court to review the order passed particularly when the order has been passed in accordance with law and no fraud has been alleged.

Hence, all the applications for grant of special leave to appeal are dismissed.

All the pending miscellaneous applications, if any, are disposed of, in view of the abovesaid judgment.

15.11.2019

Pawan

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned:-
Whether reportable:-

Yes/No
Yes/No