

CRM-A-231-MA-2017 (O&M) 1

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-40859-2019
in/and
CRM-A-231-MA-2017 (O&M)
Date of decision: 06.01.2020

Major Singh

.....Appellant

Versus

Gurvinder Singh

.....Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr.Ashish Gupta, Advocate for the appellant

ANIL KSHETARPAL, J. (ORAL)

CRM-40859-2019

For the reasons stated in the application, the same is allowed. Appeal is restored to its original number and with the consent of the learned counsel, taken on Board for hearing.

Main case

Leave to appeal has been sought against the judgment of acquittal passed by the learned Judicial Magistrate First Class, Faridkot while dismissing complaint under Section 138 of the Negotiable Instruments Act, 1881. Learned Magistrate has given the following reasons to dismiss the complaint:-

i) The complainant-appellant has not appeared in evidence. His power of attorney has appeared and stated that the alleged loan transaction did not take place in his presence. The cheque in question is alleged to have

been issued for repayment of the aforesaid alleged loan.

ii) There is no document to prove that a sum of Rs.5,20,000/- was borrowed by the respondent.

iii) No evidence has been produced to prove that Rs.5,20,000/- was available with the appellant and consequently lent to the respondent.

Learned counsel for the appellant, although made sincere attempt, however, failed to draw attention of the Court to any substantive error or perversity in the impugned order. Learned Judicial Magistrate has held that the respondent by preponderance of evidence has successfully rebutted the presumption under Section 139 of the Negotiable Instruments Act, 1881. Thereafter, complainant-appellant has failed to prove his case beyond shadow of reasonable doubt.

Keeping in view the aforesaid facts, no ground to interfere is made out. Hence, present appeal is dismissed.

06.01.2020

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Whether speaking/reasoned

Whether Reportable

(ANIL KSHETARPAL)

JUDGE

Yes / No

Yes / No