

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

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CRM-A-78-MA-2018 (O&M)

Date of Decision: 07.01.2020

Hitesh Kumar

... Applicant

vs.

Savita Rani

.. Respondent

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present : Mr. Aman Bansal, Advocate
for the applicant.

VIVEK PURI, J.(ORAL)

CRM-912-2018

For the reasons stated in the application, delay of 34 days in filing the application for leave to appeal is condoned.

CRM-A-78-MA-2018

The controversy pertains to the cheque for Rs.3,40,000/- issued by the respondent in favour of the applicant which, on presentation, has been dishonored with the remarks 'payment stopped by the Drawer'. After issuance of requisite legal notice, the complaint was instituted. The respondent was summoned and the trial culminated in her acquittal.

The case of the applicant was to the effect that a loan of Rs.3,40,000/- was advanced to the respondent and for repayment of the said amount, the cheque in question was issued. Learned trial Court has recorded a finding of acquittal primarily observing that there was no document or evidence indicating advancing of loan by the applicant to the respondent. No account books were produced.

It was stated by the learned counsel for the applicant that his father was knowing about the account books but despite opportunity, the

account books/Income Tax Returns were not produced. Even the father of the complaint/applicant was not examined. The learned Trial Court had also raised doubt with regard to the financial capacity of the complainant to make the payment of amount to the respondent. It was also observed that no interest was charged by the applicant on the loan amount despite the fact that the respondent was neither his relative, friend or having any close affinity with him. There was no document executed to indicate that the loan was secured to be repaid. Consequently, it was concluded that the respondent has rebutted the presumption created in favour of the applicant under Sections 118 and 139 of the Negotiable Instruments Act.

There is lack of material to indicate existence of legally enforceable debt. In such circumstances, the view taken by the learned trial Court appears to be reasonable and probable and does not suffer from any perversity, illegality or error which may call for any interference or indulgence of this Court.

Leave to appeal is declined.

(VIVEK PURI)
JUDGE

07.01.2020
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Whether speaking/reasoned	: Yes/No
Whether Reportable	: Yes/No