

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

RSA-5948-2018 (O&M)
Date of decision : 15.01.2020

Harinder Singh and others

...Appellants

Versus

Sanjeev Kumar

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Satnam Sishodia, Advocate for
Mr. Ravinder Malik (Ravi), Advocate for the appellants.

ANIL KSHETARPAL, J. (ORAL)

Defendants-appellants are in the Regular Second Appeal against the concurrent findings of fact arrived at by the Courts below while decreeing the suit for recovery of ₹2,70,000/- while dismissing the counter claim filed by the defendants for recovery of ₹34,400.52.

It is the case of the plaintiff that Jagir Singh, predecessor-in-interest of the plaintiff had borrowed a sum of ₹2,70,000/- by executing the pronote and receipt dated 05.05.2008. However, the amount has not been refunded although demanded.

The defendants contested the suit and pleaded that they are small farmers, owners of half acre of land, and their father never borrowed the amount in question. It was pleaded that the plaintiff is managing M/s Gandhi Commission Agent, situated in Grain Market, Khizrabad, District

Yamuna Nagar and father of the defendants used to sell his agricultural produce through the aforesaid shop. It was pleaded that as per the account books, ₹34,400.52 is due and payable in favour of the defendants against the plaintiff.

Learned trial Court, on appreciation of evidence, has recorded a finding that the plaintiff has successfully proved the execution of the pronote and the receipt as both the marginal witnesses namely Rajesh Kumar and Mam Chand have been examined in the Court. The Court found that the defendants had failed to prove their counter claim.

In the appeal filed by the defendants, on re-appreciation of evidence, the judgment passed by the learned trial Court has been upheld.

Learned counsel appearing on behalf of the appellants has submitted that there are material contradictions in the statements of Rajesh Kumar and Mam Chand, the alleged marginal witnesses of the pronote. He submitted that one witness has stated that it took 15 minutes to complete the transactions whereas other witness has stated that it took one hour. He further pointed out that one witness is saying that there were 540 notes of ₹500/- denomination whereas other witness says that there were 5 packets of notes of ₹500 denomination.

This Court has considered the submissions. These minor contradictions/variations in the oral evidence does not successfully result in rebutting the statutory presumption under Section 118 of the Negotiable Instruments Act in favour of the Holder of negotiable instruments. Small variations/differences are not sufficient to disbelieve the pronote and receipt which is signed by late Sh. Jagir Singh on revenue stamp affixed thereon.

On reading of the statement of both the witnesses, it is apparent that they have successfully proved the execution of the pronote and in cross-examination, the credibility of the aforesaid witnesses could not be impeached by learned counsel appearing for the defendants.

Learned counsel for the appellants further submitted that since the pronote is not registered, therefore, it is not admissible in evidence. However, on a pointed Court question, learned counsel could not draw attention of the Court to any statutory requirements providing for compulsorily registration of the pronote, which is a negotiable instrument, as provided under the Negotiable Instruments Act, 1881. Hence, no ground to interfere.

Accordingly, the present appeal is dismissed.

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

15.01.2020

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No