

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

CRM-3057-2020

in/and CRM-A-134-MA-2018 (O&M)

Date of decision: 28.01.2020

Manish Kumar Dhiman

.....Appellant

Versus

Gurmukh Singh

.....Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Sham Lal Bhalla, Advocate for the applicant-appellant

ANIL KSHETARPAL, J. (ORAL)

CRM-3057-2020

Appeal is restored to its original number for the reasons stated in the application. CRM stands allowed.

With the consent of the learned counsel for the appellant, the main appeal is taken on Board for final disposal.

Main case

Leave to appeal has been sought against judgment of acquittal passed by learned Judicial Magistrate First Class Fatehgarh Sahib while dismissing complaint under Section 138 of the Negotiable Instruments Act, 1881. Learned Magistrate has found that issuance of statutory notice as required to be issued for demanding the amount on dishonour of the cheque has not been proved. Learned Judicial Magistrate, on appreciation of evidence, has recorded as under:-

“11. Complainant Manish Dhiman while appearing in the witness box has himself admitted that

he has not filed any notice issued by him to the accused in the case file. He has admitted that no any alleged original register post letter received back by him as unserved is on judicial file. So much so, he went on to the extent of saying that he cannot say if receipt Ex.C4 is regarding notice or not. He stated that he himself sent the courier whereas the receipt pertains to postal department.”

Learned counsel for the appellant submits that no doubt the receipt evidencing the notice having been sent through speed post has not been produced and proved, however, the envelope through which the notice was sent has been produced.

Keeping in view the fact that the complainant has admitted that he has not produced the receipt to prove that the notice was sent to the accused. He is also not certain as to whether the alleged receipt Ex.C-4 is the postal receipt of the statutory notice or not, this Court does not find it to be a fit case for grant of leave to appeal.

Hence, dismissed.

28.01.2020

rekha

Whether speaking/reasoned

Whether Reportable

(ANIL KSHETARPAL)

JUDGE

Yes / No

Yes / No