

217 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-A-2275-MA-2018 (O&M)

Date of Decision:07.12.2022

M. CAPSHELLS CORPORATION Appellant

Versus

ROSEATE MEDICARE AND ORS Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. G. S. Gandhi, Advocate
for the appellant.

JAGMOHAN BANSAL, J. (Oral)

The appellant through instant application under Section 378(4) Cr.P.C. is seeking grant of special leave to appeal against order dated 16.04.2018 passed by the learned Judicial Magistrate Ist Class, Chandigarh whereby complaint filed under Section 138 of Negotiable Instruments Act (for short, 'NI Act') has been dismissed and respondent has been acquitted.

Learned counsel for the appellant at the outset submits that respondent during the pendency of trial had made payment of principal amount plus interest after initiation of proclamation proceedings under Section 82 Cr.P.C. The payment was made under protest. He confines his prayer to the extent that respondent shall not be entitled to refund of principal and interest paid during the pendency of the complaint. The appellant has passed away.

The Trial Court has acquitted the respondent on the ground that accused/respondent had made the payment. There is no order with respect to deposit of amount under protest. It means the Trial Court has

not considered it appropriate to order to refund the amount because respondent has been acquitted on the sole ground that he had made payment.

In view of limited prayer of the appellant, the appeal qua acquittal of respondent is dismissed.

It is made clear that respondent shall have no right or authority to claim refund of the amount, which though under protest, he had paid during the pendency of proceedings before learned Trial Court.

(JAGMOHAN BANSAL)
JUDGE

07.12.2022
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Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>