

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Sr. No.220

CRM-A-579-2021 (O&M)
Date of decision : 07.02.2023

Marvel Trip Limited

..... Applicant

VERSUS

M/s Air Travel Centre and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Brijesh Kumar, Advocate for
Mr. Aditya Jain, Advocate, for the applicant.

SUDHIR MITTAL, J. (Oral)

A complaint under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter referred to as the Act) was presented against the respondents for dishonor of a cheque of Rs.9,00,000/-. After trial, the accused have been acquitted and thus, the present application for leave to appeal has been filed.

A perusal of the record shows that the applicant is in business of booking air tickets, tour & travel packages, whereas, the accused is in the business of booking air tickets. The business of the parties is similar. The complaint has been dismissed on the ground that the presumption raised under Sections 138 and 141 of the Act stood rebutted by the defence evidence. The case of the defence was that cheque in dispute was a security cheque and that the same has been mis-used by the complainant.

Learned counsel for the applicant has submitted that the judgment of the trial Court is not sustainable in law as the evidence on record has been mis-read and mis-construed.

The submission cannot be accepted as the trial Court has found on the basis of party ledger (Ex.D-12) that the entries in the party ledger (Ex.P-8) produced by the complainant are fictitious. The entries on the basis of which the complaint was filed and tickets were allegedly issued do not exist in the party ledger (Ex.D-12).

Learned counsel for the applicant has not been able to show how the aforementioned finding is perverse or based upon mis-reading/mis-construction of the evidence.

It has also been held that the flights for which the tickets were allegedly booked are not between the places for which the same were allegedly booked. Authentic data (Ex.D-9 & D-10) in this regard has been placed on record and accepted. No perversity has been pointed out in this finding as well.

There is also a discrepancy between the voucher issued and connecting documents. Accordingly, it has been held that the presumption in favour of the holder of the cheque stood rebutted and that the same was in fact issued for security purposes.

No error having been pointed out, interference in the judgment of trial Court is not called for.

Accordingly, the present application for leave to appeal is dismissed.

(SUDHIR MITTAL)

JUDGE

07.02.2023

Ramandeep Singh

Whether speaking / reasoned	Yes
Whether Reportable	No