

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-3961-2018(O&M)

Date of Decision: August 03, 2023

MANJU GUPTA Appellant
Versus
RAMESH GUPTA Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. R.S. Mamli, Advocate for applicant.

HARKESH MANUJA, J. (ORAL)

1. By way of present appeal, challenge has been laid to judgments and decrees dated 01.03.2016 and 26.03.2018 passed by Courts below whereby a suit for recovery filed at the instance of appellant-plaintiff has been dismissed.
2. Briefly stating, the appellant-plaintiff filed a suit for recovery stating that a sum of Rs.15 lakhs was given to respondent-defendant vide two cheques bearing Nos. 987861 dated 15.03.2008 amounting to Rs.8 lakhs and 987862 dated 10.03.2008 amounting to Rs.7 lakhs. It was further pleaded that respondent-defendant assured to return the amount along with interest, however, the same was never done as such the suit.
3. On the other hand, respondent-defendant appeared and filed written statement admitting the receipt of cheques as well as the amount as alleged in the plaint. It was further stated that the daughter of appellant-plaintiff was married to the son of respondent-defendant and on account of their matrimonial discord an FIR bearing No. 291, dated 11.11.2010 under Sections 498-A, 406 read with Section 34 IPC was

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registered at the instance of the husband of the appellant-plaintiff against the respondent-defendant as well as his son and other family members. It was also submitted that the dispute between the parties was mutually settled and based thereupon a sum of Rs.50 lakhs was paid from the side of respondent-defendant to the daughter of appellant-plaintiff towards full and final settlement and a mutual decree of divorce was also obtained.

4. The trial Court vide judgment and decree dated 01.03.2016 dismissed the suit filed by the appellant-plaintiff. Aggrieved thereof, the appellant-plaintiff filed First Appeal which came to be dismissed vide judgment and decree dated 26.03.2018 passed by Ld. Addl. District Judge, Gurugram.

5. Impugning the aforesaid judgments and decrees, learned counsel for the appellant vehemently submits that in the written statement as well as in the cross-examination, while appearing as DW2, the respondent-defendant, though admitted the factum of having received two cheques, however, no evidence at all was produced on record so as to show the return of the amount. He further submits that as a result of settlement arrived at between the parties, the amount was paid to the daughter of the appellant-plaintiff towards permanent alimony and the cheques in question were never part of said settlement.

6. I have heard learned counsel for the appellant and gone through the paper-book as well as records provided by the learned counsel representing the appellant. I am unable to find substance in the submissions made on behalf of the appellant.

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7. A perusal of FIR Ex.DW1/A which was got registered at the instance of husband of appellant-plaintiff against respondent-defendant as well as his other family members show that a specific mention was made about the amount given to the respondent-defendant and his family through different cheques, in respect of dowry articles. There is no dispute that the matter arising out of the aforementioned FIR was settled between the parties against a sum of Rs.50 lakhs which was duly paid by the respondent-defendant to the daughter of the appellant-plaintiff which thus included the amounts of cheques as well.

8. Moreover, the aforementioned FIR was registered on 11.11.2010 and the dispute was settled between parties on 22.12.2010, without there being even a whisper about any dues pending against respondent-defendant on account of the alleged cheques as claimed in the present suit. This fact alone makes the entire case put forth by the appellant-plaintiff in the suit to be highly improbable.

9. In view of the discussions made hereinabove and having gone through the paper-book as well as the record, I am unable to find any illegality or perversity in the judgments passed by Courts below.

10. Resultantly, present appeal is dismissed.

03.08.2023

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(**HARKESH MANUJA**)
JUDGE

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

