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

CRM-A-948-MA-2014 (O&M)
Decided on : 30.01.2023

The Hansi New Pawar Coop. (NA) T&C Society Ltd. ...... Appellant

Versus

Shish Pal ...... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Sunil Saharan, Advocate
for the appellant.

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Manjari Nehru Kaul, J.(Oral)

CRM-18499-2014

Application is allowed as prayed for and delay of 90 days in filing the leave to appeal is condoned.

Main case

The present appeal has been filed impugning the judgment dated 21.12.2013 passed by JMIC, Hisar in complaint No.85-II of 2007 vide which respondent-accused was acquitted by the trial Court.

The case of the appellant-complainant may be noticed as thus; the accused-respondent took a loan in the sum of Rs.1,80,000/- along with interest on 27.01.2003 from the complainant-society. To clear his outstanding liability towards the complainant-society, the respondent issued a cheque bearing No.046931 dated 10.10.2006 in the sum of Rs.2,75,000/- drawn on Punjab National Bank, Hisar. However, on presentation, the aforesaid cheque was dishonoured with the remarks "insufficient funds" vide memo dated 13.10.2006. Despite legal notice dated 20.01.2007 sent to the respondent, he failed to make due payment.

The trial Court after going through the evidence on record acquitted the respondent on the ground that the cheque was not issued for discharge of legally enforceable debt or liability. The Court below held that since the Company was a Cooperative Society registered under Haryana Cooperative Societies Act, 1984 (hereinafter referred to as 'the Act'), therefore, no loan could have been extended to the respondent except as per the Scheme approved by the Registrar of the Societies. The Court still further held that no such Scheme approved by the Registrar was either pleaded or proved by the appellant-society as per the mandatory provisions of Section 64 of the Act.

Learned counsel for the appellant-complainant has reiterated the allegations levelled in the complaint as well as the averments made by the Society before the Court below.

Heard learned counsel and perused the relevant material available on record.

A perusal of the material available on record leaves no manner of doubt that appellant-society failed to comply with the provisions of Section 64 of the Act and thus, could not have extended any loan to the respondent, more so, in the absence of any Scheme approved by the Registrar of the Societies.

In the circumstances, it cannot be said that the cheque in question was issued by the respondent in discharge of his legally enforceable debt or liability.

Accordingly, the present application/appeal being devoid of any merit stands dismissed.

(MANJARI NEHRU KAUL)
JUDGE

30.01.2023
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Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No