

CRM-A-839-MA-2013 (O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(201)

CRM-A-839-MA-2013 (O&M)
Date of Decision:- 18.01.2024

Gurdev Singh Dhanota

.....Appellant

Versus

Sanjay Anand

.....Respondent

CORAM: HON’BLE MR. JUSTICE ALOK JAIN

Present: Mr. Kartik Gupta, Advocate for the appellant.

ALOK JAIN, J. (Oral)

CRM-42685-2013

1. The present application has been filed under Section 5 read with Section 14 of the Limitation Act, 1963 for condonation of delay of 700 days in filing the appeal.

2. For the reasons recorded in the application, the same stands allowed and the delay of 700 days is hereby condoned

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1. The present appeal has been filed assailing the order dated 20.07.2011 passed by Chief Judicial Magistrate, Hoshiarpur, whereby, the complaint under Section 138 of Negotiable Instruments Act came to be dismissed and the accused was acquitted.

2. The said appeal has been filed after the delay of 700 days and the reason stated is that initially the appeal had been filed within a period of

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limitation before the learned Additional Sessions Judge, Hoshiarpur, however, subsequently, in light of the judgment passed by this Hon'ble Court in the case of *M/S Tata Steel Ltd. Vs. M/s Atma Tube Products Ltd and others 2013 (2) RCR (Criminal) 1005*, the same had to be withdrawn and was preferred here.

On merits

3. Learned counsel for the appellant has submitted that the appellant had given a friendly loan of Rs. 1,75,000/- *qua* which the respondent-accused had issued a cheque bearing No. 527511 of Punjab National Bank duly signed by accused and on presentation of the same, it was received unpaid with remarks "*no such account*".

4. Learned counsel for the appellant submits that the learned trial Court has fell in error in dismissing the complaint and acquitting the accused, as the cheque was duly signed by the accused and the legal notice was also served upon him and therefore, the complaint should have been allowed.

5. I have perused the lower court record and the reasons for dismissal of the complaint to which learned counsel for the appellant could not counter. There was no occasion for the accused to have issued a cheque to the complainant as no friendly relations between the parties were demonstrated. More so, the appellant did not bring forth any cogent evidence with regard to the payment of the said amount to the accused as he has failed to place on record his Income Tax Returns of the relevant assessment years. Further, the complainant in his cross-examination admitted that the cheque in question was issued on the same day and hence,

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at the best it would have been a security cheque.

6. Learned counsel for the appellant could also not deny the fact that there is a difference of ink in the signature of the accused on the cheque and on the body of the cheque and in the absence of any robust evidence qua advancing of the said amount to the accused, the cheque could not have been issued for discharge of a legally enforceable debt.
7. In light of the above, I do not find any merit in the appeal and accordingly, the same stands dismissed.
8. All pending miscellaneous application(s), stands disposed of.

(ALOK JAIN)
JUDGE

January 18, 2024
Parul

Whether speaking/reasoned:-	Yes/No
Whether Reportable:-	Yes/No