

RSA No.3572 of 2023
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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No.125

Case No. : RSA No.3572 of 2023

Date of Decision : April 01, 2024

Gurdev Singh @ Gurdev Singh Gill Appellant
vs.
Iqbal Singh Respondents

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

* * *

Present : Dr. Payel Mehta, Advocate
as Legal Aid Counsel for the appellant.

* * *

GURBIR SINGH, J. :

- CM-12822-C-2023** : For the reasons mentioned in the application, the same is allowed and delay of 111 days in filing the present appeal is hereby condoned. The application stands disposed of.
- Main Appeal** : The instant appeal has been filed against the concurrent findings of the Courts below, whereby suit filed by the plaintiff/appellant has been dismissed.
- The brief facts, necessary for proper adjudication of the present appeal, are that the plaintiff/appellant (hereinafter referred to as – the plaintiff) filed a suit for recovery of Rs.2,72,000/- (Rs.2,00,000/- as principal amount and Rs.72,000/- as interest @ 1%), on the basis of cheque bearing No.33398 dated 16.06.2013, drawn on IDBI Bank, GT Road, Moga. The defendant/respondent (hereinafter referred to as – the defendant) is brother-in-law of the plaintiff. On request of defendant that he was in urgent need of

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money and would return the same in short period, the plaintiff issued the aforesaid cheque dated 16.06.2013 worth Rs.2,00,000/-. The defendant withdrew the said amount in presence of witnesses and promised to re-pay the same along with interest. However, later he refused to repay the aforesaid amount.

4. The defendant contested the suit on the ground that neither he borrowed any amount from the plaintiff nor he had any such necessity to borrow any amount. Rather, it was the debt which was cleared by the plaintiff through the aforesaid cheque as in family transaction, the aforesaid amount was due towards the plaintiff and he had simply discharged his liability by issuing the cheque.

5. In order to prove his case, plaintiff examined Amandeep Singh as PW-1 and Abhay Ananad, Assistant Manager of IDBI Bank as PW-3. He himself stepped into the witness box as PW-2. Learned counsel for the plaintiff also tendered a copy of *jamabandi* for the year 2012-13 as Ex.P-X.

6. On the other hand, defendant himself stepped into the witness box as DW-1 and tendered some documents in support of his case.

7. I have heard the submissions of learned counsel for the appellant and perused the case file.

8. Learned counsel for the appellant has argued that the defendant has denied the receipt of any amount by way of cheque from the plaintiff. Simple denial on the part of defendant that he did not owe any amount to the plaintiff cannot be made basis for holding that he did not receive any amount and plaintiff has no right to recover the same.

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9. After carefully considering the submissions of learned counsel for the appellant, I am of the view that the plaintiff is required to stand on his own legs. It is a simple case where a cheque of Rs.2,00,000/- was issued in favour of the defendant and he got the same encashed. Neither any document was prepared at that time nor there was any promise in writing on the part of the defendant for the repayment of the said amount. Cheque is a lawful tender of the amount. In the absence of any document whereby holder of cheque has promised to repay the amount of cheque the drawer of cheque cannot claim return of the said amount on mere oral assertions. So, the Courts below have rightly held that there is no evidence on record except the bald statement of the plaintiff and have rightly not believed the said statement.

10. There is nothing on record to show that the findings recorded by both the courts below suffer from any infirmity, illegality, perversity or are based on misreading or misappreciation of evidence on record. No question of law, much less substantial question of law, arises in the present appeal, which is accordingly dismissed in limine.

11. Pending applications, if any, shall stand disposed of along with this judgment.

April 01, 2024
monika /renu

(GURBIR SINGH)
JUDGE

Whether speaking/reasoned ?	Yes/No.
Whether reportable ?	Yes/No.