2025:PHHC:054082

In the High Court of Punjab and Haryana, at Chandigarh

1. Regular Second Appeal No. 2578 of 2022

Santosh Chaudhary

... Appellant(s)

Versus

Sarwan Singh

... Respondent(s)

2. Regular Second Appeal No. 2039 of 2023 (O&M)

Mukesh Chopra

... Appellant(s)

Versus

Sarwan Singh

... Respondent(s)

AND

3. Regular Second Appeal No. 2517 of 2023 (O&M)

Jatinder Chaudhary

... Appellant(s)

Versus

Sarwan Singh

... Respondent(s)

DATE OF DECISION: 28.04.2025

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Ivneet Singh Pabla, Advocate
for the appellant(s).

Anil Kshetarpal, J.

I. Brief Facts

1. With the consent of the learned counsel representing the appellant(s) in three connected regular second appeals (namely Regular Second Appeal No. 2578 of 2022 and Regular Second Appeal Nos. 2039 & 2517 of 2023), shall stand disposed of by this common order.

2. Regular Second Appeal No. 2578 of 2022 and Regular Second Appeal No. 2517 of 2023 have been filed by the plaintiff(s) who assail the concurrent findings of facts arrived at by both the Courts below while dismissing their two separate suits for recovery of ₹10,00,000/- and ₹2,00,000/-, respectively. Appellant-Santosh Chaudhary is the wife of Jatinder Chaudhary (the appellant in Regular Second Appeal No. 2517 of 2023).

3. In Regular Second Appeal No. 2039 of 2023, Mukesh Chopra, the plaintiff, assails the correctness of the First Appellate Court's judgment. He filed a suit for recovery of ₹3,00,000/-. The defendant in all the three suits is common, namely Sarwan Singh, who is alleged to have been related to Jatinder Chaudhary (the appellant in Regular Second Appeal No. 2517 of 2023).

4. All the three suits were filed on the basis of dishonoured cheques. The plaintiffs claim that the defendant was related to Jatinder Chaudhary and he required money for levelling his uneven land situated in village Tarlokpur, Tehsil Nahan, District Sirmour. Hence, friendly loan was given which is sought to be recovered.

5. The defendant contested the suit on the ground that he never

borrowed any loan from the plaintiff(s) and it is Jatinder Chaudhary, who opened the account in the name of the defendant (plaintiff) in ICICI Bank, and kept the cheque book with him. He is an active politician being a son of former minister. It was asserted by the defendant that he is illiterate and the plaintiffs, taking the benefit of his illiteracy, got his signatures on the cheque book which remained in possession of Jatinder Chaudhary.

6. While appearing in evidence, Mrs. Santosh Chaudhary, after having undertaken to bring her income-tax returns and copy of jamabandi which is alleged to have been supplied by the defendant at the time of taking loan, failed to produce both the aforementioned documents. Thus, both the Courts below, drew adverse inference against the plaintiffs. A complaint filed by Santosh Chaudhary under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter referred to as "the 1881 Act") was also dismissed. The Court also analyzed the evidence of Manager of the bank.

7. Similarly, in the appeal (Regular Second Appeal No. 2517 of 2023) filed by Jatinder Chaudhary, both the Courts below have failed to prove that the defendant ever obtained loan of ₹2,00,000/-. In this case also, complaint filed by appellant-Jatinder Chaudhary under Section 138 of the 1881 Act was dismissed. The Court below has found that the evidence of Sanchit Garg, Deputy Manager, ICICI Bank, corroborates the defendant's stand.

8. In Regular Second Appeal No. 2039 of 2023, Mukesh Chopra claims that on the recommendation of Jatinder Chaudhary, he gave loan of ₹3,00,000/- to the defendant. The Trial Court decreed his suit, however, the First Appellate Court, on re-appreciation of the evidence, came to a

conclusion that Mukesh Chopra has failed to bring his license authorizing him to deal in property or income-tax returns. Thus, an adverse inference has been drawn against Jatinder Chaudhary.

II. Arguments Addressed

9. Heard the learned counsel representing the appellant at length and with his able assistance, perused the paper-book.

10. The learned counsel representing the appellant(s), while referring to the deposition of Sarwan Singh, defendant, submits that he has changed his stand and the cheque book was issued subsequent to the date when the account was opened. He further submits that hence, the defence of Sarwan Singh, defendant, is weak because he has changed his stand.

III. Analysis and Discussion

11. This Court has considered the submissions of the learned counsel representing the appellant(s).

12. The plaintiffs' case is required to stand on its own legs. They are required to prove that they paid the amount to the defendant as a friendly loan. There is no document executed for extending loan of ₹15,00,000/- (total), but for the cheques, the plaintiffs have failed to produce any evidence. In fact, in all the three cases, the plaintiffs have withheld the best evidence which was in their possession. Hence, both the Courts below have drawn adverse inference against them. Additionally, the deposition of Sarwan Singh finds corroboration from Sanchit Garg, Deputy Manager, ICICI Bank. With respect to the appellants' submission with regard to change in the stand of Sarwan Singh, it would be noted that the defendant has claimed that he is illiterate and Jatinder Chaudhary, his relative, used to

run business of sale and purchase of the property on his behalf. He has stated that the cheque book was in possession of Jatinder Chaudhary. Minor variations in the stand would not prove the plaintiffs' case who have to prove their case.

IV. Decision

13. Keeping in view the aforesaid facts, no ground is made out to interfere with the concurrent findings of facts arrived at by both the Courts below in all the three appeals. Hence, all the three appeals are dismissed.

14. The miscellaneous application(s) pending, if any, in all the three appeals, shall stand disposed of.

(Anil Kshetarpal)
Judge

April 28, 2025
"DK"

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