IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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RSA-2660-2013(O&M)
Date of decision: 29.10.2025

Harminder Singh

...Appellant(s)

Vs.

M/s Pritam Singh & Sons

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Vijay Kumar Goyal, Advocate
for the appellant.

Mr. Pritam Singh Saini, Advocate
Mr. Deepak Singh Saini, Advocate
for the respondent.

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NIDHI GUPTA, J.

Present second appeal has been filed by the defendant against the judgments and decrees of the learned Courts below whereby suit filed by the plaintiff/respondent for recovery of Rs.9,55,152.51/- i.e. Rs.7,11,739.51 paise on account of principal amount and Rs.2,43,413/- on account of interest, has been decreed in part by the learned trial court; and in totality by the learned First Appellate Court.

2. Learned counsel for the appellant/defendant vehemently submits that in decreeing the suit of the plaintiff, the learned First Appellate Court has grossly misread the evidence on record. It is submitted that suit of the plaintiff would not have been decreed as the plaintiff has failed to tender

into evidence any document or any Account Book to show that there were any outstandings against the appellant. It is contended that the Courts below have also misread the evidence of PW2 and PW4 in decreeing the suit.

3. Ld. Counsel for the appellant further submits that the Id. Lower appellate court has failed to appreciate the fact that the plaintiff did not examine Avtar Singh accountant to prove the entries made by him whereas the said Avtar Singh accountant was still working with the plaintiff firm, so the entries made by him cannot be relied upon and are not proved. Moreover, the Id. Lower court has failed to appreciate the fact that the plaintiff had made additions and alterations, changed the entries by adding digits to these.

4. Learned counsel accordingly prays for setting aside of the impugned judgment and decree dated 08.12.2012 passed by the learned Additional District Judge, Patiala.

5. Per contra, learned counsel for the respondent/plaintiff vehemently controverts the submissions made on behalf of the appellant and refers to the record, as also the findings recorded by the learned First Appellate Court in comprehensive detail to submit that suit of the plaintiff has been decreed only after thorough and complete examination of all the evidence on record. It is submitted that the plaintiff had duly placed on record his Ledger Book along with the entries made therein on the basis of which suit of the plaintiff for recovery was decreed. Learned counsel accordingly prays for dismissal of the present appeal.

6. No other argument is made on behalf of the parties.

7. I have heard learned counsel and perused the case file in detail.

8. The plaintiff had filed suit with the averments that the defendant has been dealing with the plaintiff as he used to sell his crops through the plaintiff firm. The plaintiff firm is maintaining its Account Books at Samana as well as Gajewas. The defendant is running account with the plaintiff firm and used to take advances in his Khata maintained in the Account Books of the plaintiff. In 2001-02, amount of Rs.5,61,040.39/- paise was brought forward as the said amount was due from defendant at the closing of previous year. Following amounts were advanced to defendant in his Khata i.e. Rs.3,000/- on 30.04.2001; Rs.5,000/- on 04.05.2001; Rs.2,60,000/- was received by the defendant from plaintiff against entry recorded at page No.26 duly signed by plaintiff. During 2001-02, wheat crops of Rs.1,17,300.80/- was sold by defendant through plaintiff at Purchase Centre, Gajewas which was duly credited in the account of the defendant. After adjusting the said amount, Rs.7,11,739.51/- remained outstanding against the defendant which he failed to pay. After settling the account in 1998-99, an amount of Rs.5,82,000/- was received as advance by the defendant on 23.10.1998, which was brought forward in next year i.e. 1999-2000. Various other entries were duly recorded in Khata of the defendant. The defendant had failed to pay the said amount to plaintiff despite repeated request. Accordingly, present suit was filed on 17.03.2003.

9. The learned trial Court vide judgment and decree dated 18.05.2010 had partly decreed the suit of the plaintiff for recovery of Rs.1,99,739/- along with interest @ 10% per annum. Suit of the plaintiff was not decreed in its entirety as it was held by the trial Court that plaintiff had failed to prove entries Ex.P-74 and Ex.P-75 by not examining its Accountant Avtar Singh.

10. Against the said judgment and decree passed by the learned trial Court, 2 appeals the same being Civil Appeal No.121 of 2010 titled as "M/s Pritam Singh & Sons Vs. Shri Harminder Singh" was filed by the plaintiff against the defendant, which was allowed vide judgment and decree dated 08.12.2012; whereas Civil Appeal No.24-T of 22.07.2011 titled as "Shri Harminder Singh Vs. M/s Pritam Singh & Sons" was filed by the defendant against the plaintiff, which was dismissed vide judgment and decree dated 08.12.2012. Hence, present second appeal by the defendant.

11. A perusal of record shows that the assertions on behalf of the appellant that plaintiff had failed to produce any evidence and had failed to prove on record that any amounts were outstanding against the defendant are factually incorrect. The plaintiff had duly placed on record the Rokar as well as the Account Books maintained by the plaintiff firm which reflected detailed entries in the Khata of the defendant. The said entries were proved through the evidence of PW2 Balkar Singh partner in the plaintiff firm; and PW4 Manoj Kumar Accountant in the plaintiff firm. These Khata

entries/Rokar/Account Books, and Account Statements have been considered in detail by the learned First Appellate Court in Paras 15, 16, 17, 18 and 21 of it's judgment dated ………, relevant extracts of which read as follows:-

> *"15. In order to prove the various entries made in the Rokar as well as in the account books maintained by the plaintiff firm, in the ordinary course of business have been proved on the record through the statement of PW Balkar Singh PW Manoj Kumar. The entries proved on record through the statements of these witnesses are as follows:-*

Sr. No.	*Amount*	*Date*	*Exhibits*
1.	*Rs.50,000/-*	*27.4.1998*	*Ex. P58*
2.	*Rs.50,000/-*	*05.5.1998*	*Ex. P59*
3.	*Rs.20,730/-*	*21.5.1998*	*Ex. P60*
4.	*Rs.5,000/-*	*25.7.1998*	*Ex. P61*
5.	*Rs.50,000/-*	*13.10.1998*	*Ex. P62*
6.	*Rs.1,03,000/-*	*21.10.1998*	*Ex. P63*
7.	*Rs.1,20,730.30 P*		*Ex. P64*
8.	*Rs.1,55,128.12 P*	*18.11.1998*	*Ex. P67*
9.	*Rs.2,871/-*	*23.10.1998*	*Ex. P70*
10.	*Rs.5,82,200/-*	*23.10.1998*	*Ex. P71*
11.	*Rs.3,000/-*	*18.8.1999*	*Ex. P73*
12.	*Rs. 4,70,000/-*	*3.2.2000*	*Ex. P74*
13.	*Rs.2,30,000/-*	*14.2.2000*	*Ex. P75*
14.	*Rs.1,04,944/-*	*12.9.1999*	*Ex. P76*
15.	*Rs.1,17,428.50 P*	*15.10.1999*	*Ex. P78*
16.	*Rs.6,000/-*	*13.7.2000*	*Ex. P81*
17.	*Rs.30,000/-*	*23.10.2000*	*Ex. P82*
18.	*Rs.60,000/-*	*22.11.2000*	*Ex. P84*
19.	*Rs.15,000/-*	*19.12.2000*	*Ex. P85*
20.	*Rs.74,217.05 P*	*22.04.2000*	*Ex. P86*
21.	*Rs.2,00,742.56 P*	*19.10.2000*	*Ex. P88*
22.	*Rs.3,000/-*	*30.04.2001*	*Ex. P91*
23.	*Rs.5,000/-*	*04.05.2001*	*Ex. P92*
24.	*Rs.2,60,000/-*	*09.06.2001*	*Ex. P93*
25.	*Rs.1,17,300.33 P*		*Ex.P94*

Besides that the plaintiff had proved on record the following J Forms:-

Sr. No.	*Form No. and Date*	*Amount*	*Exhibits*
1.	*53 dated 21.4.1998*	*Rs.1,13,551.15 P*	*Ex.P*
2.	*9 dated 8.5.1998*	*Rs. 7179.15 P*	*Ex.P66*
3.	*82 dated 15.10.1998*	*Rs.1,27,862.92 P*	*Ex.P68*
4.	*53 dated 2.11.1998*	*Rs.27,265.20 P*	*Ex.P69*
5.	*25 dated 12.4.1999*	*Rs.1,09,944/-*	*Ex.P76*
6.	*9 dated 14.10.1999*	*Rs.1,17,428.50 P*	*Ex.P79*
7.	*24 dated 22.4.2000*	*Rs.74,217.05 P*	*Ex.P87*
8.	*76 dated 19.10.2000*	*Rs.2,00,742.56 P*	*Ex.P89*
9.	*64 dated 23.4.2001*	*Rs.23,4,2001*	*Ex.P95*

16. Besides that, the plaintiff had also proved on record the copy of Khata for the year 1999-2000 as Ex. P80, Khata for the year 2000-2001 Ex.P90, Khata for the year 2001-02 Ex. P96. The plaintiff firm had also proved on record the form-A and form-C as Ex. P56 and Ex. P57. Learned lower court had accepted the entries except the entries Ex. P61, Ex. P63, Ex. P67, Ex. P82 to Ex. P85, Ex. P91, Ex.P92 and Ex. P93, which were proved the testimony of Accountant of the plaintiff firm PW Manoj Kumar and PW Balkar Singh, one of the partners of the plaintiff firm. The learned lower court while declining the proof of the entries Ex. P61, Ex. P63, Ex. P67, Ex. P82 to Ex.P85, Ex. P91, Ex. P92 and Ex. P93 had assigned the reason that the same entries have been recorded by Avtar Singh Accountant and on account of non-appearance of Avtar Singh Accountant, these entries were not proved on the record. This court is unable to concur with the findings returned by the learned lower court in this regard for the reasons that the plaintiff firm had examined PW Balkar Singh, who was one of the partners of the plaintiff firm. He had stated on solemn affirmation that *the plaintiff firm had maintained the regular account in the ordinary course of business and the entries so proved on the record were in the handwriting of Manoj Kumar Accountant and Avtar Singh Accountant. He had further stated that he was acquainted with the handwriting of both the Accountants. The entries recorded in the hands of Manoj Kumar Accountant, had been proved by Manoj Kumar. As regards the entries recorded in the hands of Avtar Singh Accountants, this court finds no reason to disbelieve the version of PW Balkar Singh. He was acquainted with the handwriting of Avtar Singh Accountant, who was employee of the plaintiff firm. PW Balkar Singh, who was partner of the plaintiff firm and duly acquainted with the handwriting of Avtar Singh Accountant was able to prove the entries in the hands of Avtar Singh. Moreover, the Defendant Harinder Singh was duly confronted with those entries and his signatures available in the Gurmukhi script on the entries. The defendant admitted that he used to append his signatures in the Gurmukhi script. The defendant was aware that he was to be confronted with his corresponding signatures on these entries recorded by Accountants Manoj Kumar and Avtar Singh. Cleverly enough when the defendant was confronted with his own admitted signatures on power of attorney executed in favour of his counsel Shri IS Salloja, Advocate, and on his own pleadings, he denied that the same were his signatures. Such a denial on the part of the defendant speaks volumes of his conduct. Such a conduct of the defendant gives valid reason to the court to believe that the defendant had already made up his mind to deny his signatures on whatsoever documents to be confronted by the plaintiff. While doing so, he made an* *endeavour to mislead the court and he had denied his admitted signatures on his own documents. Interestingly, the defendant denied his signatures on his own affidavit and also on his own pleadings. He also denied his signatures on the summons issued by the court. When such a conduct of the defendant is kept in mind, this court has no hesitation to conclude that the defendant is proved as on out right liar. Despite having business dealings with the plaintiff firm and despite having executed the entries in favour of the plaintiff in the regular accounts maintained by the plaintiff firm, the defendant had denied his signatures on the accounts books. If the defendant has courage to deny his signatures on his own documents, it is not surprisingly, that he would deny his signatures on the documents executed in favour of the plaintiff, on which the plaintiff has relying upon. So, in these circumstances, denial of the defendant of his signatures on the entries in the account books is of absolutely no significant…*

17. The evidence having been appraised, the entries in the Rokar books specifically entry Ex. P58 regarding an amount of Rs. 50,000/-27.4.98, entry Ex. P59 regarding an amount of Rs. 50,000/- dated 5.5.98, entry Ex. P60 regarding an amount of Rs. 20,730/- dated 21.5.98, entry ex. P62 regarding an amount of Rs. 50,000/- dated 13.10.98, entry Ex. P64 regarding an amount of Rs. 1,20,730/- dated 19.05.98, entries entry Ex. P67 regarding an amount of Rs. 1,55,123,12 P dated 18.11.98, entry Ex. P70 regarding an amount of Rs. 2871/- dated 23.10.98, entry Ex. P73 regarding an amount of Rs. 3,000/- dated 18.8.99, entry Ex. P74 regarding an amount of Rs. 4,70,000/- dated 3.2.2000, entry Ex. P75 regarding an amount *of Rs. 2,30,000/- dated 14.2.2000, Ex. P76 Rokar entry pertaining to J form of Rs. 1,09,944/- dated 12.4.1999, Ex. P78 Rokar entry dated 14.10.99 for Rs. 1,17,428.50 P and entry Ex. P88 Rokar entry of Rs. 2,00,742.56 P dated 19.10.2000 stands proved on record through the statement of Accountant Manoj Kumar.*

18. Entry Ex. P61 regarding an amount of Rs. 5000/- dated 25.7.98, Entry Ex. P63 regarding an amount of Rs. 1,03,000/- dated 21.10.98, Entry Ex. P81 regarding an amount of Rs. 6000/- dated 13.07.2000, Entry Ex. P82 regarding an amount of Rs. 30,000/-dated 23.10.2000, Entry Ex. P83 regarding an amount of Rs. 25,000/- dated 27.10.2000, Entry Ex. P84 regarding an amount of Rs. 60,000/- dated 22.11.2000, Entry Ex. P85 regarding an amount of Rs. 15,000/- dated 19.12.2000, Entry Ex. P91 regarding an amount of Rs. 30,000/- dated 30.04.2000, Entry Ex. P92 regarding an amount of Rs. 5000/- and Entry Ex. P93 Rokar entry regarding an amount of Rs. 2,60,000/- dated 9.6.2001 recorded in the hands of Accountant Avtar Singh stands proved on record through the statement of PW Balkar Singh, who was acquainted with the handwriting of Avtar Singh Accountant.

XXX XXX XXX

21. Ex. P58 an amount of Rs. 50,000/- dated 27.4.98, Ex. P59 regarding an amount of Rs. 50,000/- dated 5.5.98, Ex. P60 regarding an amount of Rs. 20,730/- dated 21.5.98, Ex. P61 regarding an amount of Rs. 5,000/- dated 25.7.98, Ex. P62 regarding an amount of Rs. 50,000/- dated 13.10.98, Ex. P63 regarding an amount of Rs. 1,03,000/- dated 21.10.98, Ex. P71 regarding an amount of Rs. 5,82,200/- dated 23.10.98, Ex. P73 regarding an amount of Rs. 3,000/- dated 18.8.99, Ex. P74 regarding an amount of Rs. 4,70,000/- dated 3.2.2000, Ex. P75 regarding an amount of Rs. 2,30,000/- dated 14.2.2000, Ex.

*P81 regarding an amount of Rs. 6,000/- dated 13.07.2000, Ex. P82 regarding an amount of Rs. 30,000/- dated 23.10.2000, Ex. P83 regarding an amount of Rs. 25,000/- dated 27.10.2000, Ex. P84 regarding an amount of Rs. 60,000/- dated 22.11.2000, Ex. P85 regarding an amount of Rs. 15,000/- dated 19.12.2000, Ex. P91 regarding an amount of Rs. 30,000/- dated 30.04.2000, Ex. P92 regarding an amount of Rs. 5,000/- dated 4.5.2001 and Ex. P93 regarding an amount of Rs. 2,60,000/- dated 9.6.2001. Out of the total amount of Rs. 19,67,930/-, an amount of Rs. 12,56,189.91 paisa stood repaid by way of sale of agriculture produces and thus an amount of Rs. 7,11,740.09 paisa was outstanding and thus the plaintiff was entitled to the recovery of the entire outstanding amount. The claim of the plaintiff could not be stated to be time barred, because account was a running account. In this regard, the law laid-down by Hon'ble Punjab and Haryana High Court in a case titled as "**Lehri Singh Vs. M/s Sawan Traders (India), 2009(4) RCR (Civil), page 379"** can be pressed into service, wherein while discussion the provisions of Sections 33 and 34 of the Indian Evidence Act with reference to the Article 85 of the Limitation Act of the year 1903 and Article 1 of the Limitation Act, 1963 held that where the recoveries are based upon running cash/credit account as per article 1, the limitation is three years, which start from the close of the year, in which the last item admitted or proved is entered in the account. Meaning thereby, the year in which the last entry is made is excluded from computing the limitation and thereafter, i.e. from following January the limitation of three years would start and the suit filed for recovery within three years of the close of such transaction would be well within limitation. The Hon'ble High Court while dealing with the case of recovery of a Commission Agent maintaining regular account books and the defendant signing the entries in the Bahi Khata held that where the last payment was made by the defendant in the year 2001, the suit filed within three years of the last payment would be within limitation. In the instant case, the last payment is said to have been made on 9.6.2001. The defendant had a running account with the plaintiff firm.*

The suit, which was filed on 13.3.2003 within three years is well within limitation."

12. Learned counsel for the appellant is unable to dispute or controvert the above said facts and findings. From the above findings, it is clear that the learned first Appellate Court has considered the entire record in minute detail. Further, the trial Court was in error in holding that plaintiff had failed to prove these entries by examining Avtar Singh as the said entries stood duly proved from the evidence of PW2 Balkar Singh and Accountant of the plaintiff firm namely PW4 Manoj Kumar.

13. In view of the above, present appeal is **dismissed.**

14. Pending application(s) if any also stand(s) disposed of.

(Nidhi Gupta)
Judge

29.10.2025
Sunena

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