

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

2026:PHHC:069472



Regular Second Appeal No. 77 of 2006 (O&M)

Reserved on : 01.05.2026

Pronounced on : 08.05.2026

Bhura Singh

.....Appellant

versus

Balbir Singh

.....Respondent

CORAM: HON'BLE MRS. JUSTICE RAMESH KUMARI

Present: Ms. Chandanpreet Kaur Ahluwalia, Advocate,
(Amicus Curiae) for the appellant.

Ms. Khusbu Sharma, Advocate (Amicus Curiae)
for the respondents.

RAMESH KUMARI, J.

1. This appeal is directed against the judgment and decree dated 06.12.2005 passed by the Court of learned District Judge, Bathinda whereby the appeal filed by the appellant-defendant (hereinafter referred to as 'the defendant') against the respondent-plaintiff (hereinafter referred to as 'the plaintiff) for recovery for a sum of Rs. 2 lacs along with interest to be charged at the rate of 12% per annum from 25.05.2001 till passing of the judgment and decree by the learned trial Court i.e. 01.09.2005 and future interest on the decretal amount from the date of passing of the decree till realization of the actual decretal amount had been dismissed and the judgment and decree passed by the Court of Civil Judge (Junior Division), Talwandi Sabo had been upheld.

2. The facts which form backdrop of the suit are that defendant-Bhura Singh obtained a sum of Rs. 2 lacs as loan from the plaintiff Balbir Singh on 25.05.2001 and in lieu thereof he had executed a pronote and receipt (Ex.P1 and Ex.P2) respectively of even date in favour of the plaintiff with promise to repay the same on demand together with interest at the rate of 2% per month. The defendant did not repay even a single penny either towards principal or interest and hence the plaintiff was constrained to file the civil suit before the Civil Court.
3. The defendant filed written statement denying the averments of the plaint and also raised preliminary objections that plaintiff had no locus-standi and cause of action to file the civil suit and the pronote and receipts are forged and fabricated documents. The defendant never executed the same as no consideration was paid to him.
4. Based on the pleadings, learned trial Court framed the following issues vide order dated 03.01.2004:-
 - 1) Whether the defendant borrowed a sum of Rs.2,00,000/- from the plaintiff on 25.05.2001 and executed a pronote and receipt in favour of the plaintiff on that date? OPP
 - 2) If issue no.1 is proved, whether plaintiff is entitled to recover any interest on the borrowed amount, if so at what rate? OPP.
 - 3) Whether plaintiff is entitled to recover Rs.3,10,000/- from the defendant? OPP
 - 4) Whether suit of the plaintiff is within time? OPP
 - 5) Whether the alleged pronote and receipt are false, forged, fabricated and are without consideration? OPD.

- 6) Whether suit of the plaintiff is not maintainable in the present form? OPD.
 - 7) Relief.
5. During the course of trial, the plaintiff examined scribe, Sandeep Singla as PW1, attesting witness Varinder Kumar as PW2 of the pronote and receipt. Plaintiff Balbir Singh himself stepped into the witness box as PW3 and tendered his affidavit as Ex.PW3/A. On the other hand, the defendant examined his nephew Paramjeet Singh as DW1 besides examining himself as DW2.
6. After going through the pleadings and the oral as well as documentary evidence brought on record, the learned trial Court vide impugned judgment dated 01.09.2005 decreed the suit with costs to the effect that:
- “the plaintiff is entitled to recover the principal amount of Rs.2,00,000/- alongwith interest to be charged @ 12% per annum from 25.05.2001 till today and he is also entitled to recover future interest on the decretal amount from today onwards till the actual realization of the decretal amount”.*
7. Against the aforesaid impugned judgment and decree dated 01.09.2005 passed by the learned trial Court, the first appeal filed before the First Appellate Court by the defendant had been dismissed vide impugned judgment and decree dated 06.12.2005.
8. I have heard learned counsel for the parties besides perusing the record as well as the findings returned by the Courts below with care and circumspection.
9. Ms. Chandanpreet Kaur Ahluwalia, Advocate (amicus-curiae) appearing on behalf of the defendant (appellant herein) eloquently urged that indeed the learned trial Court and the First Appellate Court committed error by holding that defendant took loan of an amount of Rs.2 lacs from the plaintiff on

25.05.2001 and executed pronote and receipt Ex.P1 and Ex.P2, respectively, whereas no amount was taken by the defendant from the plaintiff. The plaintiff failed to prove the source of the amount allegedly given to the defendant. The plaintiff is admittedly not a money lender and therefore, he cannot lend loan to the defendant. The plaintiff during the course of cross-examination stated that at the time of execution of pronote and receipt, no person was present there because the pronote was executed/filled up secretly. Learned counsel for the defendant further contended that this part of cross examination of the plaintiff proved that signatures of scribe and the attesting witnesses on the pronote and receipt were obtained later on and there is no liability on the part of the defendant to pay the alleged amount. Infact pronote Ex.P1 and Receipt Ex.P2 are forged document because the attesting witness PW2 Varinder Kumar is the commission agent of the plaintiff and scribe PW1 Sandeep Singla is the son of his Muneem/Munshi. It is also not proved that for what purpose the loan was given to the defendant by the plaintiff.

10. Per-contra, Ms. Khusbu Sharma, learned Amicus Curiae, appearing on behalf of the plaintiff (respondent herein) submitted that on evaluating the testimony of PW1 Sandeep Singla, scribe of the disputed promissory pronote and receipt and duly corroborated by the testimonies of PW2 Varinder Kumar and PW3 Balbir Singh plaintiff himself, it emanates that due execution of disputed pronote as well as receipt stand established. Section 118 of the Negotiable Instruments Act, 1881 raises a statutory presumption of its consideration when the execution of the disputed pronote and receipt is duly proved. It is a friendly loan transaction and the loan was given on demand of the defendant. The defendant failed to plead in his written statement as well as to prove in what manner or how the pronote and receipt are forged and fabricated documents

and whether both the pronote and receipt do not bear the signatures of the defendant or his signatures were obtained under pressure or coercion.

11. Having regard to the pleadings in the civil suit, the findings recorded by the learned trial Court as well as by the learned First Appellate Court and in the light of the rival contentions and submissions made on either side before this Court, the following point would arise for determination:-

“Whether the impugned judgment and decree passed by the learned trial Court duly upheld by the learned First Appellate Court, need any interference?”

12. The defendant has taken a specific plea in the written statement and also deposed as DW2 that he did not execute any pronote and receipt in favour of the plaintiff. He never borrowed any amount from the plaintiff as mentioned in the plaint. On overall reading of the written statement and evidence led by the defendant, it reveals that defendant has not admitted his signatures on pronote Ex.P1 and receipt Ex.P2, then initial burden lies on the plaintiff to establish the transaction as mentioned in the pronote.
13. The plaintiff himself stepped into the witness box as PW3 and tendered his affidavit as Ex.PW3/A. There are specific averments in his affidavit that defendant borrowed a sum of Rs.2 lacs @ 2% per month for his family expenses and agreed to pay the loan amount on demand. He also stated that inspite of repeated demands, the defendant failed to repay the amount and therefore, he was constrained to file the civil suit. His statement is duly corroborated by the testimonies of PW1 Sandeep Singla, scribe and PW2 Varinder Kumar, attesting witness of the pronote and receipt.
14. Having examining the scribe PW1 Sandeep Singla and attesting witness PW2 Varinder Kumar, the plaintiff discharged the initial burden of due execution of pronote and receipt Ex.P1 and Ex.P2 respectively by the defendant. PW1

Sandeep Singla, in his testimony on oath has specifically stated that on 25.05.2001 the defendant Bhura Singh had taken a sum of Rs. 2 lacs as loan with interest at the rate of 2% per month for his domestic needs from the plaintiff. The said pronote and receipt Ex.P1 & Ex.P2 were filled up at the instance of parties and after filling the same, the same were read over to them. Defendant Bhura Singh had signed the pronote and receipt Ex.P1 & Ex.P2 after admitting its contents as correct. He also stated that the pronote and receipt were scribed and signed by him. He specifically stated that the principal amount was paid by Balbir Singh plaintiff to Bhura Singh defendant in his presence and in the presence of PW2 Varinder Kumar.

15. PW2 Varinder Kumar not only identified his signatures on pronote Ex.P1 and receipt Ex.P2 but also specifically stated that the same were filled up at the instance of defendant Bhura Singh in favour of Balbir Singh plaintiff and after filling up the same, the same were read over and explained to defendant Bhura Singh and thereafter defendant Bhura Singh received a sum of Rs. 2 lacs from the plaintiff in his presence.
16. During the course of arguments, learned amicus-curiae appearing for the defendant disputed the capacity of plaintiff to pay a sum of Rs.2 lacs to the defendant. However, plaintiff Balbir Singh during cross examination specifically stated that defendant was demanding money 8 to 10 days before execution of the pronote. Initially he (plaintiff) had declined but defendant used to come and demanded money. The plaintiff specifically stated that he had collected Rs. 2 lacs and part of the amount was price of sale of the buffaloes and part amount was price of sale of wheat and cotton crops. PW2 Varinder Kumar who undisputedly is the commission agent of the plaintiff during cross examination also stated that the money was brought by Balbir

Singh from his home and it was taken in the bag made of cloth. Balbir Singh had sold the wheat crop and had taken the money in lieu thereof. Record regarding sale of wheat is with them and the said entries are made in the record by Sandeep Singla PW1 scribe because his father is Muneem/Munshi in their shop. Defendant had not summoned the record regarding sale of wheat crop through the commission agency of PW2 Varinder Kumar to rebut the fact that the plaintiff had means to lend an amount of Rs. 2 lacs to him. Therefore, the plaintiff being the land holder had sold the wheat and cotton crops as well as buffaloes and thereby he had the means and capacity to lend the money to the defendant.

17. Learned amicus curiae appearing for the defendant has also contended that the plaintiff did not have the money lending licence and for that reason he was not in a position to pay the loan amount to the defendant and therefore, the loan transaction is not proved. The defendant had failed to brought on record any document that excluding the present loan transaction, the plaintiff advanced any amount to any other person or to the defendant. The plaintiff was not required to possess the money lending licence for a single friendly loan transaction.
18. Learned amicus curiae for the defendant had pointed out that at the time of execution of the pronote, n o person was present and for this reason the presence of PW2 Varinder Kumar and PW1 Sandeep Singla at the time of execution of pronote is not proved. PW2 Balbir Singh during cross examination stated that the pronote was filled up by PW1 Sandeep Singla who is Muneem of the attesting witness. He also deposed that at the time of execution of the pronote, no person was present as the pronote was filled up secretly. This fact that no person was present there because the pronote was

filled up secretly is to be read alongwith other evidence led by the plaintiff. Undisputedly, father of PW1 Sandeep Singla scribe is working as Muneem with commission agency of PW2 Varinder Kumar. PW1 Sandeep Singla specifically stated that pronote & receipt Ex.P1 and Ex.P2 were filled up by him at the instance of the parties and he had explained the contents of the same to the parties and after admitting the same as correct, the parties put their signatures. This fact is not only corroborated by plaintiff but also by PW2 Varinder Kumar. Both the witnesses i.e. PW1 Sandeep Singla and PW2 Varinder Kumar specifically stated that an amount of Rs.2 lacs was paid to the defendant in their presence. PW3 Balbir Singh plaintiff is more specific that the currency notes were of the denomination of Rs. 100/- each having 20 bundles. The plaintiff has no previous enmity or prior litigation with defendant Bhura Singh and therefore, there was no reason to forge the signatures of Bhura Singh defendant on pronote and receipt Ex.P1 and Ex.P2. PW3 plaintiff while subjected to cross examination denied the suggestion that defendant Bhura Singh accidentally fired a gun shot at him and therefore, there was a dispute. Except that mere suggestion during cross examination of plaintiff, no document is placed on record by the defendant that the plaintiff and defendant had any previous enmity. The defendant has simply taken a plea that pronote and receipt Ex.P1 & Ex.P2 are forged and fabricated one but he failed to plead and prove that how the forgery was committed by the plaintiff.

19. Once the plaintiff discharged the initial burden of execution of pronote and receipt Ex.P1 and Ex.P2 respectively, under Section 118 of the Negotiable Instruments Act, 1881, there is a statutory presumption for due execution of the same. Section 118 of the Negotiable Instruments Act, 1881 reads as follows:-

“118. Presumptions as to negotiable instruments:-

Until the contrary is proved, the following presumptions shall be made:—

- (a) of consideration —that every negotiable instrument was made or drawn for consideration, and that every such instrument, when it has been accepted, indorsed, negotiated or transferred, was accepted, indorsed, negotiated or transferred for consideration;*
- (b) as to date —that every negotiable instrument bearing a date was made or drawn on such date;*
- (c) as to time of acceptance —that every accepted bill of exchange was accepted within a reasonable time after its date and before its maturity;*
- (d) as to time of transfer —that every transfer of a negotiable instrument was made before its maturity;*
- (e) as to order of indorsements —that the indorsements appearing upon a negotiable instrument were made in the order in which they appear thereon;*
- (f) as to stamps —that a lost promissory note, bill of exchange or cheque was duly stamped;*
- (g) that holder is a holder in due course —that the holder of a negotiable instrument is a holder in due course:*

Provided that, where the instrument has been obtained from its lawful owner, or from any person in lawful custody thereof, by means of an offence or fraud, or has been obtained from the maker or acceptor thereof by means of an offence or fraud, or for unlawful consideration, the burden of proving that the holder is a holder in due course lies upon him.”

20. In view of aforesaid provision, the Court must presume that the plaintiff was holder of pronote Ex.P1 and receipt Ex.P2 in due course of law and burden shifts upon the defendant to rebut the said presumption by leading cogent and convincing evidence. Mere denial in the testimony of defendant is insufficient in law to rebut this presumption. In the present case, the defendant neither produced any documentary evidence nor examined any expert witness to deny his signatures on pronote & receipt Ex.P1 & Ex.P2 and had confined his

defence to simple denial which does not meet the legal standard of rebuttal. Reference can be made hereto the observations of Hon'ble Apex Court in ***Kapil Kumar vs. Raj Kumar, Civil Appeal No. 5854 of 2022, decided on 14.10.2022***, wherein it had been observed as under:-

“.....it is required to be noted that as per the provision of Section 118 of the NI Act, there is a presumption of consideration in the negotiable instrument (Section 118 (a). It is true that such presumption may be rebutted”..... (emphasis supplied).

21. In ***the*** present case and as discussed above, except for denial on the part of defendant and DW1 examined by him, no convincing evidence is led to rebut the due execution of pronote and receipt and borrowing of an amount of Rs.2 lacs alongwith interest at the rate of 2% per month by him. In these circumstances, the learned trial Court rightly decreed the suit filed by the plaintiff and the learned First Appellate Court also affirmed the impugned judgment rendered by the trial Court.
22. There are concurrent findings of fact recorded by the learned trial Court as well as by the First Appellate Court about execution of the pronote and receipt Ex.P1 and Ex.P2 by the defendant in favour of the plaintiff. Such findings were recorded on appreciation of entire evidence brought on record by the respective parties. Hon'ble Apex Court in ***Kapil Kumar vs. Raj Kumar case (supra)*** had also observed that *“unless the concurrent findings recorded by the courts below were found to be perverse, the same were not required to be interfered with by the High Court in exercise of powers under Section 100 of CPC.”*
23. In view of the foregoing discussion, this Court is of the view that the plaintiff had proved due execution of pronote and receipt Ex.P1 & Ex.P2 respectively by leading cogent and convincing evidence and the defendant failed to rebut

the same. The issue framed for determination is hereby decided in favour of the plaintiff.

24. The impugned judgments rendered by the Courts below are upheld. Accordingly, the second appeal is dismissed for want of merits. Copy of the judgment be forwarded to quarter concerned.

Pending applications, if any, also stand disposed of.

(RAMESH KUMARI)
JUDGE

08.05.2026
ravinder

Whether speaking/reasoned	√Yes/No
Whether reportable	√Yes/No