(2000) 01 P&H CK 0005

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Miscellaneous No. 249-MA of 1999

M.S. Harchand — APPELLANT

Vs

Prem Nath Dhawan — RESPONDENT

Date of Decision: Jan. 11, 2000

Acts Referred:

- Negotiable Instruments Act, 1881 (NI) - Section 138

Citation: (2000) 2 CivCC 5 : (2000) 2 RCR(Criminal) 145

Hon'ble Judges: Mehtab S. Gill, J; Jawahar Lal Gupta, J

Bench: Division Bench

Advocate: G.K. Chawla, for the Appellant; B.S. Jaswal, for the Respondent

Final Decision: Dismissed

Judgement

Jawahar Lal Gupta, J.

Applicant M.S. Harchand filed a complaint against respondent Prem Nath Dhawan Before the Judicial Magistrate 1st Class, Pathankot; u/s 138 of the Negotiable Instruments Act, 1881. It was alleged that the respondent had issued a cheque dated November 24, 1992 for a sum of Rs. 10,000/- which had been dishonored by the Bank of India, Pathankot, on May 22, 1993. This had happened on account of insufficient founds. The complainant claimed to have issued a legal notice. The respondent having failed to make the payment, he filed the complaint. The trial Court accepted the complaint and held the respondent guilty. Aggrieved by the order of conviction, Prem Nath Dhawan filed an appeal. The Sessions Judge having accepted the appeal, the complainant has filed this application for the grant of special leave to appeal.

2. We have heard Learned Counsel for the parties.

3. Admittedly, me complainant''s ledger was examined by the Court. It was found that the complainant had certain dealings with the son of the respondent-accused. A sum of Rs. 10,000/- had been advanced to Mr. V.K. Dhawan, son of the respondent

on July 16, 1990. According to the entry appearing at page 40 of the ledger, the amount had been repaid on May 30, 1991. There was evidence of various other transactions also. However, there is no entry indicating the advance of any money to the respondent. It is on the basis of this fact that the Court has found that there was no basis for the claim and the complaint against the respondent. Still further, it has been found that the respondent had issued a cheque as a guarantee on behalf of his son. There is a cutting on the cheque. Still further, it has been found that no money had been advanced to the respondent. Learned Counsel for the respondent has also stated before us that the. amount advanced to Mr. V.K. Dhawan had actually been repaid and a receipt dated October 23, 1992 had been issued by the complainant, indicating that he had received Rs. 3,200/ - in full and final settlement of the entire amount.

4. The findings recorded by the lower appellate Court are not shown to be wrong. Thus, we find no ground for interference. The application for grant of special leave to appeal is dismissed. The amount of fine, if any deposited by the respondent, shall be refunded to him.