IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

220 **RSA-30-2012 (O&M)**
Date of decision: 25.09.2025

Sukhdev Singh **...Appellant(s)**

Vs.

Gurmeet Kaur **...Respondent(s)**

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. P.S.Dhaliwal, Advocate for the appellant.

Mr. K.K.Garg, Advocate for the respondent.

NIDHI GUPTA, J.

Defendant is in second appeal against concurrent judgments and decrees of the learned Courts below, whereby suit for recovery filed by the plaintiff/respondent, has been decreed by both the Courts below.

2. Brief facts of the case as pleaded by the plaintiff in the plaint are that the defendant had borrowed Rs.2 lacs from the plaintiff with interest @ Rs.2 per month for which he had executed Pronote and Receipt dated 01.09.2006 in the presence of witness Darshan Singh. However, as the defendant had failed to return the said amount, the present suit for recovery was instituted on 29.02.2008.

3. Vide impugned judgment and decree dated 11.11.2010, the learned Civil Judge (Junior Division), Barnala had decreed the suit of the plaintiff with costs for recovery of Rs.2 lacs alongwith interest @ 9% per annum from the date of execution of the Pronote and Receipt till today; and future interest @ 6% p.a. from the date of passing of decree till realization of decretal amount. The appeal filed by the defendant was

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dismissed by the learned Additional District Judge, Barnala vide judgment and decree dated 17.03.2011. Hence, present Second Appeal by the defendant.

4. It is *inter alia* submitted by learned counsel for the appellant that the suit of the plaintiff could not have been decreed as the plaintiff had failed to prove the source of money. It is submitted that it has been positively proved by the appellant on the record that the respondent had not withdrawn any money from her account or she has not taken any money from the commission agent and moreover respondent has not produced any evidence regarding the withdrawal of the amount or taken from the commission agent or any other sources before the Ld. Courts below. So, the respondent is not entitled to the alleged Pronote amount because he has not proved the consideration on the record. Respondent has also not proved the passing of consideration; and once it is so then the suit of the respondent cannot be decreed. Moreover, the appellant and the plaintiff are residents of different villages. As such, there is no cause or occasion for the appellant to have borrowed the money from the plaintiff.

5. Learned counsel for the appellant further submits that the respondent and marginal witness Darshan Singh are close relatives. Darshan Singh the marginal witness of the Pronote admitted that he has close relations with the respondent but in the suit filed by Darshan Singh against the appellant he denied his relation with the respondent. As such, evidence of Darshan Singh cannot be taken into account.

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6. It is further submitted by learned counsel for the appellant that the witness of the Pronote and Receipt is Darshan Singh. The date mentioned in the Pronote shows that the alleged Pronote has been prepared during the pendency of the suit titled as **Darshan Singh Vs. Sukhdev Singh**. The respondent had not produced any fingerprint expert to prove the writing of the Pronote and receipt and signatures of the appellant. The respondent has not put any inquiry regarding the Pronote and receipt nor examine the signature appellant. Thus, it has been positively proved on the record that Pronote and Receipt in question are forged and fabricated and without any consideration. So, finding of the Ld. Courts below deserves to be set aside and the suit of the respondent deserves to be dismissed with costs.

7. It is accordingly prayed that the present Second Appeal be allowed; and the impugned judgments and decrees of the learned Courts below be set aside.

8. *Per contra,* learned counsel for the plaintiff opposes submissions made on behalf of the appellant and submits that the fact that the attesting witness Darshan Singh is the brother-in-law of the plaintiff would not in any manner adversely effect the suit of the plaintiff. It is submitted that in fact the appellant is a habitual borrower. Moreover, the Pronote and Receipt stood duly proved from the evidence of Darshan Singh. No evidence in rebuttal was led by the appellant. Therefore, the judgments and decrees of the learned Courts below suffer from no error. He, accordingly, prays for dismissal of the present appeal.

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9. No other argument is raised on behalf of the parties. I have heard ld. Counsel and perused the case file in great detail. I find no merit whatsoever in the submissions made on behalf of the appellant.

10. It is the case of the appellant that the Pronote is a forged and fabricated document fraudulently obtained by the plaintiff. However, it has been admitted by the appellant that no police complaint was registered by him against the plaintiff for alleged forgery. Even no Handwriting Expert was examined by the defendant to substantiate the said contention.

11. During the course of arguments, it has also been admitted by learned counsel for the appellant that Darshan Singh had previously instituted a suit against the appellant. It has come on record that the Appellant had borrowed money from Darshan Singh also, for recovery of which Darshan Singh had filed Civil Suit against the appellant on the basis of Pronote dated 04.06.2004. In the said suit also, appellant had denied borrowing money from Darshan Singh. However, the said suit was decreed in favour of Darshan Singh. Clearly, therefore, the appellant is habitual of borrowing money and then denying the same. In fact, in the present case the appellant in his cross-examination has denied his signatures on the Power of Attorney executed by the appellant, in favour of his own counsel. From these facts, it is clear that appellant is habitual not only of borrowing money but also denying his signatures thereafter.

12. Thus, due execution of the Pronote (Ex.P1) and Receipt (Ex.P2) both dated 01.09.2006 stands fully established from the

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testimonies of the plaintiff PW1 and attesting witness Darshan Singh PW2. Despite lengthy cross-examination, appellant has been unable to dent their testimonies. On the other hand, except for bald statements, appellant has led no evidence to prove his case. I am in agreement with the reasoning of the learned Courts below that merely because the attesting witness happens to be related to the plaintiff, would not in any manner weaken the case of the plaintiff. The very fact that the defendant has denied his own signatures on Power of Attorney executed by him in favour of his counsel, would show that it is the usual practice of the defendant of denying his signatures on the documents executed by him. In this situation, presumption under Section 118 of the Negotiable Instruments Act is liable to be drawn as the evidence adduced by the plaintiff is much more convincing and reliable. Under Section 118 of the Act, until contrary is proved, the presumption shall be made that every negotiable instrument was drawn for consideration.

13. Keeping in view the above uncontroverted facts and findings, no ground is made out to interfere in the concurrent judgments and decrees of the ld. Courts below. The present Regular Second Appeal is hereby **dismissed.**

14. Pending applications, if any, stand disposed of.

25.09.2025 **(NIDHI GUPTA)**
Divyanshi **JUDGE**

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

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