

2025:PHHC:069862



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA-1812-2025 (O&M)
Date of Decision: 22.05.2025

SOMBIR

.... APPELLANT

Vs.

KAPIL

.... RESPONDENT

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Mr. Jitender Nara, Advocate, for the appellant.

DEEPAK GUPTA, J.

Defendant of the case is before this Court against the concurrent findings of the Courts below.

2.1 Plaintiff had lent an amount of ₹2.5 lakh to the defendant vide a pronote dated 25.02.2015 for a period of 3 years, repayable along with interest @ 2% per month. As defendant did not return the amount, plaintiff sent legal notice dated 12.12.2017, but with no response and so, plaintiff filed the suit for recovery.

2.2 Defendant did not dispute availing the loan from the plaintiff or having executed the pronote. However, it was contended that he had returned the amount through cheque No.137907, drawn on the account of M/s Subodh Construction Company, which was duly honoured, but plaintiff did not return the original pronote to him and filed the suit by misusing the said pronote for the purpose of extorting more money.

2.3 In rejoinder, plaintiff reiterated his case.

2.4 Necessary issues were framed. Evidence produced by the parties was taken on record.

2.5. Trial Court decreed the suit for recovery of ₹2,50,000/- along with cost of the suit and simple interest @ 9% per annum from the date of loan till realization vide judgment dated 11.02.2020. The appeal filed by the defendant-appellant herein was dismissed by the First Appellate Court on 21.12.2024.

3. Assailing the aforesaid concurrent findings, it is contended by learned counsel that amount borrowed by the appellant-defendant had been returned to the plaintiff-respondent from the account of M/s Subodh Construction Company and that Subodh was examined as DW2, who proved to have issued the cheque in favour of the plaintiff at the instance of the defendant. Not only this, bank account statement of M/s Subodh Construction Company also reflected that an amount of ₹4,60,000/- was paid to the plaintiff on 16.08.2016 through cheque No.137907. It is urged that in these circumstances, the Courts below committed error in decreeing the suit.

4. After considering the contentions raised by learned counsel for the appellant and going through the paper-book, this Court does not find merit in the appeal.

5.. As rightly observed by the Courts below that amount of ₹2,50,000/- was lent on 25.02.2015, returnable with interest @ 2% per month. In case the interest is calculated on the lent amount of ₹2,50,000/- upto 16.08.2016, when the cheque was issued by M/s Subodh Construction Company in favour of the plaintiff, the interest would be approximately ₹90,000/- and so the total amount would become ₹3,40,000/-. In these circumstances, it was absolutely not explained that why the cheque of ₹4,60,000/- will be issued at the instance of the defendant by M/s Subodh Construction Company to the plaintiff.

6. The contention raised by the defendant to the effect that there was some other transactions due to which the more amount was paid, was found to be beyond pleadings and so rightly rejected.

7. Most importantly, learned counsel for the appellant is unable to convince this Court that in case the amount was returned to the plaintiff through the cheque of M/s Subodh Construction Company on 16.08.2016, which cheque was later on also honored, why the defendant did not take back the pronote from the plaintiff. The contention of the counsel that defendant had asked the plaintiff to return the pronote, but he did not do so is absolutely not believable, considering the fact that after the honoring of the cheque dated 16.08.2016, neither any notice was sent by defendant to the plaintiff to return the pronote nor any complaint was made to any authority, whatsoever. In case the amount was returned by the defendant to the plaintiff through the account of M/s Subodh Construction Company, against the pronote dated 25.02.2015 (Ex.P1), it is unbelievable that defendant will not insist for return of the pronote at the time of issuance of the cheque itself or immediately after realization of the cheque.

8. For all the reasons, as discussed above, this Court does not find any ground to interfere in the well-reasoned concurrent findings of fact as recorded by the Courts below, which are found to be based upon proper appreciation of evidence on record.

9. In the absence of any illegality or perversity in the findings, this Court holds the present appeal to be devoid of any merit and as such, the same is hereby dismissed.

22.05.2025

Vivek

**(DEEPAK GUPTA)
JUDGE**

<i>Whether speaking/reasoned?</i>	Yes
<i>Whether reportable?</i>	No