

IN THE COURT OF
Civil Judge (Junior Division) AT Jalandhar
Presided Over by Sh. Mohinder Partap Singh Libra

CIS No. CS/299/2022
CNR No. PBJL020005162022
Date of institution: 02.02.2022
Date of decision : 17.11.2023

1. Pee Pee Marketing through its proprietor, Parveen Jaswal s/o Brig, J.S. Jaswal, VrC, SM, aged 48 years, Wazir Enclave, Opposite Bansal Palace, Jalandhar.

2. Parveen Jaswal s/o Brig. J.S. Jaswal, VrC, SM, aged 48 years, Proprietor, Pee Pee Marketing, Wazir Enclave, Opposite Bansal Palace, Jalandhar.

..... Plaintiff.

Versus.

1. M/S Chhabra Gift Center, Roshan Road, Opposite Swaran Theater, Hoshiarpur.

2. Kunal Chhabra Proprietor M/s Chhabra Gift Center, Roshan Road, Opp. Swaran Theatre Hoshiarpur Distt. Punjab.

.....Defendants.

Suit for recovery of Rs.7,930/- alongwith pendente lite interest @24% per annum from the date of suit, till final realisation, as envisaged vide Section 34(1), CPC.

Present: - Sh. Joginder Singh Jaswal, Advocate, Counsel for plaintiff.
Def. No.1 and 2 exparte

JUDGMENT

1. The present suit has been filed by plaintiff bank against the defendant for recovery of Rs.7,930/- as fully detailed in the head note of the plaint.

2. In nutshell, facts of the case of plaintiff are that In nutshell the facts of the case of the plaintiff are that plaintiff No.1 is a proprietorship concern owned by Parveen Jaswal plaintiff No.2. Plaintiff firm, registered with GST Authority, and Ministry of MSME. Reference is made to GST Registration Certificate number 03AANPJ168IKIZL (Annexure P/1) and MSME Certificate

No.PB1OFO027000 dated 05/06/2020 (Annexure P/2). Copy is attached with the file. It is averred that plaintiff firm deals with business and marketing of Mobile Phones, Electronics goods etc. Defendants developed business relations with the plaintiff firm and purchased mobile phones etc on credit from the plaintiff firm vide various invoices, with assurance that the defendants would make the payment of the mobile phones etc so purchased by the defendants from the plaintiff firm. Above said business transactions were as per the contractual terms agreed between plaintiffs and defendants. The agreed terms were described on the invoices as: i. PDC-10 Days, ii. Bank charge cheque bounces 300/-, iii. Interest on delayed payment beyond ₹due date 24% P.A. Reference is made to contractual terms described and authenticated by plaintiff and defendant on the invoices described in the statement of accounts. It is mentioned that the mutually agreed interest @ of 24% is to partly compensate the plaintiff expenses that the plaintiff has had to incur and continues to incur due to delay/default in payment against legally enforceable debt/liability of the defendant i.e. (i) 11% per annum monthly rests interest on the CC limit i.e. 12% per annum (ii) 5.62% per annum depreciation of the value of the rupee (iii) infrastructure expenses 8% (iv) ROI 24 % = 49.62%. The average annexed inflation rate in India between 2017 & 2021 has been 5.62%. Reference is made to plaintiff banker certificate regarding plaintiff firm Pee Pee Marketing CC limit interest (Annexure P/3) & Inflation Chart downloaded from Google (Annexure P/4) is attached with the file. It is further mentioned that plaintiff firm is maintaining mutual open running & current regular accounts in the name of defendants. The true computerized copy of the statement of account is attached. The statement of the account is correct and is regularly maintained in the ordinary course of the activities by firm. Defendants are also liable to pay

future interest @ 24% from date of suit till realization, to the plaintiffs. Statement of Accounts (Annexure P/5) Interest sheet (Annexure P/6). Certificate under Section 65B, IEA, for Statement of Accounts and interest sheet are attached with file, (Annexure P/7). It is further categorically mentioned that defendants purchased mobile phone from the plaintiff firm vide various invoices detail of which is mentioned in the statement of account. The above said invoices etc. are duly entered in the computerized account books of the plaintiff, which are kept and maintained in the ordinary course of the business. Plaintiff and defendant had regular business and defendant had been regularly purchasing material from the plaintiff and also had been making part payments and there are both credit and debit entries as reflected in the account statement. The entries of the said bills etc. are also reflected in the balance sheet and list of sundry debtors and same are also shown in the VAT/GST returns filed by plaintiff before the department of excise and taxation. Defendants were given returns detail of which is mentioned in the statement of account. These cash receipts along with other cash receipt described in the statement of account. That as per the business transactions, the plaintiff firm is entitled to recover a suit amount of which the defendants have filed to pay and this liability of Rs.7,930/- has arisen out of contractual/commercial transaction such, described on the invoices and duly authenticated by the plaintiff and defendant. It is alleged that plaintiff firm requested the defendant's number of times to pay the suit amount to the plaintiffs but the defendants put off the plaintiffs with one pretext or the other. The defendants assured plaintiff a number of times that they would soon make the due payment of the legally enforceable debt but did not keep their word. Defendants did not care to clear the outstanding amount and

have failed to make the payment and finally they refused to make the payment. Hence, the present suit.

3. Upon notice, defendant failed to appear despite due service, accordingly he was proceeded against ex-parte and then plaintiff led ex-parte evidence.

4. In ex-parte evidence plaintiff examined Parveen Jaswal as PW-1, who deposed in the court by way of his duly sworn affidavit Ex. PW1/A and he reiterated the entire avernments made in the plaint in totality. He tender into evidence documents i.e. GST registration certificate number 03AANPJI68IKIZL Ex.P1, MSME Certificate No.PB10F0027000 dated 05.06.2020 Ex.P2, CC limit interest Ex.P3, inflation chart downloaded from Google Ex.P4, statement of account Ex.P5, interest sheet Ex.P6, certificate under Section 65B Ex.P7, invoices Ex.P8 to Ex.P24, certificate under section 65B, IEA, for statement of accounts and interest sheet is Ex.P25, copies of sale return are Ex.P26, certificate under Section 65B for sale return is Ex.P27, copies of credit notes are Ex.P28 and Ex.P29 and certificate under Section 65B for credit note is Ex.P30. Thereafter, Ld. Counsel for plaintiff closed ex-parte evidence of plaintiff.

5. I have heard learned counsel for plaintiff and have also perused the case file very carefully and minutely.

6. In the instant case, plaintiff is claiming recovery of amount of Rs.7,930/- from defendant along with interest at the rate of 24% per annum till realization. Several documents have been brought on record by plaintiff as mentioned above. Entire evidence of plaintiff has gone unrebutted and unchallenged and there is no reason with the Court to disbelieve the evidence of plaintiff, which is stated on oath in the Court.

7. From the above, it becomes crystal clear that defendant had business dealings with the plaintiff and Rs.7,930/- is still outstanding against the defendants. Plaintiff has brought on the record invoices as Ex.P8 to Ex.P24, which have been proved by PW1. The account statement brought on record as Ex.P5 also corroborates that **Rs.7,930/-** is due towards defendants. Present suit is well within limitation as the last transaction between the plaintiff and defendant as per statement of account Ex.P5. Therefore, suit filed by plaintiff deserves to be decreed. As far as rate of interest is concerned, plaintiff is claiming that he is entitled to future contractual interest @ 24% per annum and for that purpose, he is relying on the term and condition mentioned on the invoices but the invoice issued by plaintiff firm was not signed by both the parties with respect to terms and conditions but simply receiving has been given by the defendant firm but it does not amount to binding itself with terms with respect to rate of interest and is a unilateral document signed only by the plaintiff and moreover, plaintiff is relying upon on law settled by Hon'ble Supreme Court in which it has been clearly mentioned that interest will be awarded at the contractual rate of interest and if the contractual rate of interest is not established, then the rate at which money is advanced by Nationalised bank will be treated as contractual rate of interest but in the present eventuality, no evidence with regard to the fact that 24% was agreed between the parties as penal interest has been brought on record by the plaintiff in case default is made by the defendant and the invoice in which 24% is mentioned is unilateral document and defendant cannot be deemed to be bound by such rate of interest, accordingly, this court is not inclined to order rate of interest to the tune of 24% as the same is on higher side. However, plaintiff is held entitled to recover the amount of Rs.7,930/- from defendant along with interest @ of 12 % per annum

from the date of filing of this suit till the decision of this case. Plaintiff is also held entitled to future interest on the above said amount @ 9% per annum i.e from the date of decision of this suit till its realization.

8. As an upshot of my above discussion, suit filed by plaintiff is partly decreed with costs to the effect that plaintiff firm is entitled to recovery of Rs.7,930/- along with interest @ 12% per annum from defendants from the date of filing of the present suit, pendent lite, and alongwith interest @ 9% from the date of decree till the same is repaid.

9. Decree sheet be prepared. File be consigned to the Record Room after due compliance.

Pronounced;
Dt:17.11.2023

(Mohinder Partap Singh Libra), PCS
Civil Judge (Junior Division),
Jalandhar/UID No.PB-0653.

CIS No. CS/299/2022
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Present: - Sh. Joginder Singh Jaswal, Advocate, Counsel for plaintiff.
Def. No.1 and 2 exparte

Arguments heard. Vide my separate detailed Judgment of even date, suit of plaintiff's bank stands decreed with costs as detailed therein. Decree Sheet be prepared accordingly. File be consigned to record room, Jalandhar.

Pronounced;
Dt:17.11.2023

(Mohinder Partap Singh Libra), PCS
Civil Judge (Junior Division),
Jalandhar/UID No.PB-0653.

Value of the Suit for the purpose of Court fee Rs.

Value of the Suit for the purpose of Jurisdiction Rs.

DECREE SHEET.

IN THE COURT OF
Civil Judge (Junior Division) AT Jalandhar
Presided Over by Sh. Mohinder Partap Singh Libra

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.....Defendants.

Suit for recovery of Rs.7,930/- alongwith pendente lite interest @24% per annum from the date of suit, till final realisation, as envisaged vide Section 34(1), CPC.

This suit is put up before me (Mohinder Partap Singh Libra, PCS, Civil Judge (Jr. Divn.) Jalandhar for final disposal today i.e. 17.11.2023 in the presence of Sh. Joginder Singh Jaswal, Advocate, Counsel for plaintiff and none for defendant.

As an upshot of my above discussion, suit filed by plaintiff is partly decreed with costs to the effect that plaintiff firm is entitled to recovery of

Rs.7,930/- along with interest @ 12% per annum from defendants from the date of filing of the present suit, pendent lite, and alongwith interest @ 9% from the date of decree till the same is repaid.

MEMO OF COSTS

S.No.	PARTICULARS	Plaintiff	Defendants
1	Stamp for plaint		
2	Stamp for powers		
3	Service of process		
4	Pleader's fee		
5	Subsistence of witnesses		
6	Misc.		
	Total:		

Given under my hand and the seal of this court today i.e. on 17.11.2023.

(Mohinder Partap Singh Libra), PCS,
Civil Judge (Junior Division),
Jalandhar/ UID No. PB0653