



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

RSA-3789-2001 (O&M)

Reserved on :- 22.04.2026

Date of Pronouncement:- 24.04.2026

Uploaded on:-27.04.2026

Bharat Raj Sharma

... Appellant

Versus

Jaswant Rai

... Respondent

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Argued by :-

Mr. Aakash Singla, Advocate
for the appellant.

Respondent proceeded ex-parte vide order dated 05.11.2001.

VIRINDER AGGARWAL, J.

1. The present Regular Second Appeal (hereinafter referred to as the "RSA") has been preferred by the appellant-defendant assailing the judgment and decree dated 04.05.2001 passed by the learned First Appellate Court, whereby the appeal instituted by the respondent-plaintiff against the judgment and decree dated 14.12.1998 of the learned Trial Court, dismissing the suit, came to be allowed.

2. Chronology of events of the matter is that the respondent-plaintiff instituted a suit for recovery of ₹2,06,400/- on the basis of a pronote and receipt dated 17.09.1994. It was pleaded that the appellant-defendant had borrowed a sum of ₹1,20,000/- on the said date at an agreed



rate of interest of 2% per month and executed the pronote and receipt in favour of the plaintiff, undertaking to repay the amount along with interest on demand. Despite repeated demands and service of legal notice dated 08.08.1997, the defendant failed to discharge the liability, thereby necessitating the institution of the suit.

3. The suit was contested by the appellant-defendant, who denied the execution of the pronote and receipt for consideration and pleaded that no amount was ever advanced by the plaintiff. It was further contended that the plaintiff was an unlicensed money lender. On merits, the defendant asserted that he had never borrowed any amount and that no consideration passed under the alleged instrument. It was pleaded that Ashok Kumar, a marginal witness to the pronote and receipt, was a member of a money collection scheme allegedly run by the plaintiff, and being the highest bidder, was entitled to receive the collected amount. The plaintiff is stated to have demanded security from Ashok Kumar, whereupon, to facilitate such security, the defendant appended his signatures on blank proforma pronote and receipt. It was further asserted that Ashok Kumar had repaid the amount, save for a minor dispute regarding one or two instalments. The defendant, being a Punjab State Government employee, pleaded that he could not legally engage in such financial transactions. It was also averred that the other witness and the scribe were not present at the time the signatures were obtained.

4. The respondent-plaintiff filed a replication, controverting the assertions made in the written statement and reiterating the averments contained in the plaint. Upon a comprehensive consideration of the pleadings and rival submissions, the learned Trial Court proceeded to



frame the following issues for adjudication, so as to effectively determine the matters in controversy between the parties:-

- i) Whether the defendant received a sum of Rs.1,20,000/- vide pronote dated: 17-9-1994? OPP
- ii) Whether the plaintiff is entitled to interest, if so, at what amount? OPP
- iii) Whether the plaintiff has no cause of action or locus standi to file this suit? OPD
- iv) Whether the plaintiff is a money lender and does not possess the money lending licence, if so, its effect? OPD
- v) Relief.

5. Upon the framing of issues, both parties were afforded full and adequate opportunity to adduce evidence in support of their respective claims and defences and to address arguments. Upon conclusion of the trial, the learned Trial Court dismissed the suit. Aggrieved thereby, the respondent-plaintiff preferred an appeal, which came to be allowed by the learned First Appellate Court, resulting in the judgment and decree of the learned Trial Court being set aside and the suit of the respondent-plaintiff being decreed. Hence, the present appeal.

6. The appeal was admitted for hearing vide order dated 02.05.2003. Notice was duly served upon the respondent; however, none appeared on his behalf. The record of the courts below was requisitioned and is available for consideration.

7. I have heard learned counsel for the appellant at considerable length and have bestowed anxious and thoughtful consideration to his submissions, in the context of the pleadings, the evidence on record, and the findings returned by the learned Courts below.



8. As regards the scope of second appeal, it is now a settled proposition of law that in Punjab and Haryana, second appeals preferred are to be treated as appeals under Section 41 of the Punjab Courts Act, 1918 and not under Section 100 CPC. Reference in this regard can be made to the judgment of the Supreme Court in the case of ***Pankajakshi (Dead) through LRs and others V/s Chandrika and others, (2016)6 SCC 157***, followed by the judgments in the case of ***Kirodi (since deceased) through his LR V/s Ram Parkash and others, (2019) 11 SCC 317 and Satender and others V/s Saroj and others, 2022(12) Scale 92***. Relying upon the law laid down in the aforesaid judgments, no question of law is required to be framed.

9. Learned counsel for the appellant contended that the learned First Appellate Court has reversed the well-reasoned judgment and decree of the learned Trial Court on mere surmises and conjectures. It was argued that the testimony of DW-2 Ashok Kumar, a marginal witness to the pronote and receipt, has been overlooked, wherein he categorically deposed that the appellant-defendant had signed the documents in blank as security in connection with a money collection scheme, and that the pronote and receipt were subsequently fabricated.

10. Per contra, the record reveals that the respondent-plaintiff examined PW-2 Pardeep Kumar, a marginal witness, who unequivocally proved the due execution of the pronote and receipt by the appellant-defendant upon receipt of ₹1,20,000/-, and specifically deposed that the said amount was paid in his presence. The execution of the documents was further corroborated by PW-1 Krishan Kumar Vinocha, Advocate, the



scribe, who proved the relevant register entry (Ex.P4), bearing the signatures of the appellant-defendant.

11. The defence set up by the appellant-defendant that he had signed blank proforma documents and that the scribe was not present stands conclusively belied by the documentary evidence on record, particularly the register maintained by the scribe, which contains his signatures. No plausible explanation has been furnished by the appellant-defendant for appending his signatures in the said register.

12. The learned Trial Court appears to have discarded the plaintiff's claim primarily on the ground that the loan transaction was not reflected in the income tax returns. However, it is not the case of the respondent-plaintiff that the loan was advanced through any firm; rather, the consistent stand is that the amount was advanced in his personal capacity, partly from cash available with him and partly from sale proceeds of his shop. In such circumstances, non-reflection in the firm's accounts or income tax returns cannot, by itself, discredit the transaction.

13. The learned First Appellate Court has, therefore, rightly appreciated the evidence and concluded that the execution of the pronote and receipt, as well as the passing of consideration, stand duly proved. The statutory presumption under Section 118 of the Negotiable Instruments Act, 1881 remains unrebutted. The defence put forth by the appellant-defendant stands discredited in view of the cogent evidence on record.

13.1. In the light of aforesaid observations, this Court finds no merit in the instant appeal and the same is hereby dismissed.



14. Consequent upon the final adjudication of the principal matter, all pending miscellaneous applications, if any, arising out of or connected with the present proceedings, shall stand disposed of by necessary implication. In light of the conclusions reached herein, no separate or independent orders are required in respect of such applications, as their determination has become wholly infructuous and academic.

24.04.2026
Gaurav Sorot

(VIRINDER AGGARWAL)
JUDGE

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No