

SLP(Crl.)No. 2174-2175 OF 1999

ITEM No.19

Court No. 4

SECTION IIA
A/N MATTER

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl.) No. 2174-2175/1999

(From the judgement and order dated 18/05/1999 in CRLM 14125&27/99
of The HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)

EMMARSO EXPORTS (P)LTD.&ORS

Petitioner (s)

VERSUS

SURYA KNITWEARS LTD.

Respondent (s)

(With Appln(s). for stay)
(With Office Report)
With

SLP(Crl.)No. 2980/1999

Date : 16/02/2001 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.B. PATTANAIAK
HON'BLE MR. JUSTICE U.C. BANERJEE

For Petitioner (s) Mr. V.B.Joshi,Adv.
Mr. Sandeep Tiwari,Adv.

For Respondent (s) Mr. Yogeshwar Prasad,Sr.Adv.
Mrs Rachna Gupta,Adv.
Dr.I.P.Singh,Adv.

UPON hearing counsel the Court made the following
O R D E R

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Even though the entire amount covered by the dishonoured cheque had been sent by the accused to the complainant, and that also had been encashed by the complainant yet it cannot be said that no offence under section 138 had been committed inasmuch as it is alleged that the accused did not pay within 15 days of the receipt of the notice indicating that the cheques have been dishonoured. There is some assertion that notice had not been received by the accused but that would be a matter for trial. It is also

crystal clear that in course of trial, the learned Trial Judge may take into consideration the fact that the entire amount was paid through a Bank draft and complainant has already encashed the same. But it would be difficult for us

to quash the complaint on that basis. Needless to mention it would be still open for the parties in the facts and circumstances of the case to enter into a settlement before the learned trying Magistrate.

The Special Leave Petitions are dismissed.

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(Y.P.Dhamija)

(Suneet Bala Sharma)@@

AA

COURT MASTER

COURT MASTER