

Order 37 Rule 4 CPC denying the liability and making assertion that she has already paid a sum of Rs.9,45,000/- in cash in installments without a receipt to the respondent/plaintiff and only balance amount of Rs.55,000/- remained to be paid. The respondent was to return the cheque on receipt of Rs.55,000/-. He did not turn up for returning the cheque and filed the frivolous suit.

3. The petitioner's contention was considered by the court below but did not find favour with him and the application under Order 37 Rule 4 CPC was dismissed and a review was also dismissed.

4. I have heard the counsel for the petitioner. The petitioner has not denied the receipt of loan at any stage or issuance of cheque of Rs.10 lac in discharge of loan. The plea taken by the petitioner that she had made payment in cash to the respondent without any receipt of Rs.9,45,000/-, is not believable especially when the petitioner herself signed an acknowledgment and receipt of taking loan and had also issued a cheque for repayment. It cannot be believed that she paid back amount in cash without any receipt. More over according to her, she paid Rs.9,45,000/- cash within 2 months i.e. January and February 2005. She has not stated where from she got this amount for payment in cash. Why did not she pay the amount by cheque. The plea raised by the petitioner herein is not convincing.

5. The petition has no force and the same is hereby dismissed.

December 02, 2008.

Sd./-
SHIV NARAYAN DHINGRA, J.