



CRM-M-26869-2024 (O&M)

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

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CRM-M-26869-2024 (O&M)**Reserved on:-12.02.2026****Pronounced on:- 13.02.2026****Uploaded on:-16.02.2026**

*Whether only operative part of the judgment is
Pronounced or the full judgment is pronounced:*

operative part/full judgment

Sandeep Singh

....Petitioner

VERSUS

State of Punjab and Another

....Respondents

CORAM : HON'BLE MS. JUSTICE MANDEEP PANNU

Present: Mr. Amit Arora, Advocate for the petitioner.

Mr. Hardeep Hans, AAG Punjab.

Mr. Karnail Singh Ahhi, Advocate

Mr. Rupinder Singh, Advocate and

Mr. Anil Bhateja, Advocate for respondent No.2

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MANDEEP PANNU J. (Oral)

1. Petition under Section 482 of the Code of Criminal Procedure for quashing of the orders dated 24.04.2024, whereby the application filed under Section 391 Cr.P.C. for leading additional evidence by the petitioner in criminal appeal bearing No. CRA/156/2019 dated 10th December 2019 titled as *Sandeep Singh versus Lakhbir Singh* before the learned Additional Sessions Judge, Tarn Taran, arising out of complaint bearing No. NACT/134/2018 dated 13.04.2018 filed under Section 138 of the Negotiable Instruments Act and decided by the learned Judicial Magistrate Ist Class, Tarn Taran vide judgment dated 18.11. 2019, stands dismissed by the learned Additional Sessions Judge, Tarn Taran.

2. The present proceedings arise out of a complaint filed by respondent No. 2 under Section 138 of the Negotiable Instruments Act against the petitioner. It

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was alleged that the petitioner and his wife had entered into an agreement to sell their land to the complainant on 17.09.2016 and possession was delivered. However, the sale deed was not executed, leading to a compromise whereby the petitioner agreed to pay a sum of ₹55,00,000/- to the complainant and issued three post-dated cheques. In discharge of the said liability, cheque bearing No. 000017 dated 20.02.2018 for ₹15,00,000/- drawn on HDFC Bank was presented for encashment but was dishonoured with the remarks “Stop Payment.” Despite service of legal notice dated 23.03.2018 calling upon the petitioner to make payment within the statutory period, no payment was made, and consequently, complaint No. NACT/134/2018 dated 13.04.2018 was instituted by respondent No. 2.

3. The petitioner was convicted by the learned trial Court vide judgment dated 18.11.2019 for the offence under Section 138 of the Negotiable Instruments Act. Feeling aggrieved against the said judgment of conviction, respondent No. 2 preferred an appeal, which is presently pending adjudication before the learned Additional Sessions Judge, Tarn Taran.

4. During the pendency of the said appeal, the petitioner preferred an application under Section 391 Cr.P.C. praying therein for permission to lead additional evidence, including placing on record the attested copy of affidavit dated 15.01.2018, inquiry report bearing No. 644-5A dated 20.07.2020 and certified copies of statements of Daljit Singh and Bikramjit Singh, and to examine the said witnesses along with the concerned police official in support of his defence.

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5. However, the said application under Section 391 Cr.P.C. was dismissed by the learned Additional Sessions Judge, Tarn Taran vide impugned order dated 24.04.2024, which is under challenge in the present petition.

6. Learned counsel for the petitioner contends that the impugned order dated 24.04.2024 passed by the learned Additional Sessions Judge, Tarn Taran dismissing the application under Section 391 Cr.P.C. is illegal, arbitrary and contrary to the settled principles governing the exercise of power for taking additional evidence. It is submitted that the petitioner was wrongly convicted by the learned trial Court vide judgment dated 18.11.2019 under Section 138 of the Negotiable Instruments Act and has already preferred an appeal against the said conviction.

7. It is further contended that during the pendency of the appeal, the petitioner moved an application under Section 391 Cr.P.C. seeking permission to lead additional evidence by producing the attested copy of affidavit dated 15.01.2018, inquiry report bearing No. 644-5A dated 20.07.2020 and certified copies of statements of Daljit Singh and Bikramjit Singh, and to examine the said witnesses along with the concerned police official, which are essential for just adjudication of the matter. It is argued that the said documents came into existence after the conviction of the petitioner and, therefore, could not be produced during trial.

8. The petitioner submits that the learned appellate Court dismissed the application on untenable grounds of delay and alleged negligence, without appreciating that the power under Section 391 Cr.P.C. is meant to subserve the ends of justice and to prevent failure of justice. Reliance has been placed upon the judgment of the Hon'ble Supreme Court in *Ajitsinh Chehuji Rathod vs State of*



Gujarat and another, 2024 SCC OnLine SC 77, 2024(1) RCR (criminal) 804 to contend that additional evidence can be permitted where the party was prevented from producing the same earlier or where such evidence came to light at a later stage and its non-consideration would result in miscarriage of justice. It is thus prayed that the impugned order be set aside and the application under Section 391 Cr.P.C. be allowed.

9. *Per contra*, learned counsel for respondent No. 2 has argued that the application under Section 391 Cr.P.C. is nothing but an attempt to prolong the proceedings and delay the disposal of the appeal. It is submitted that there is an unexplained delay of about two years in moving the said application, as the appeal was filed in 2019 whereas the application for leading additional evidence was moved only on 04.10.2022. It is thus contended that the learned Additional Sessions Judge has rightly dismissed the application and no interference is called for in the present petition.

10. Before advertng to the rival submissions, it would be apposite to notice the provisions of Section 391 Cr.P.C. Section 391 Cr.P.C. empowers the Appellate Court, while dealing with any appeal, to take further evidence or direct it to be taken, if it considers such additional evidence to be necessary. The provision mandates that reasons are to be recorded and such evidence may either be taken by the Appellate Court itself or directed to be taken by a Magistrate or Court of Session. The object of the provision is to subserve the ends of justice in appropriate cases. However, it is well settled that the power under Section 391 Cr.P.C. is to be exercised sparingly and with circumspection and not as a matter of course. It is not intended to fill up lacunae in the case or to allow a party to improve upon its case after having had a full opportunity before the trial Court.



11. In the present case, the petitioner was convicted by the learned trial Court vide judgment dated 18.11.2019. The appeal was filed on 11.12.2019 and is pending adjudication before the learned Additional Sessions Judge, Tarn Taran. The application under Section 391 Cr.P.C. seeking to lead additional evidence was, however, moved only on 04.10.2022, i.e., after an unexplained delay of almost two years from the filing of the appeal.

12. The additional evidence sought to be produced consists of an affidavit dated 15.01.2018, inquiry report bearing No. 644-5A dated 20.07.2020 and statements of Daljit Singh and Bikramjit Singh. It is to be noted that the affidavit dated 15.01.2018 was very much in existence during the trial. No plausible explanation has been furnished as to why the same was not produced before the trial Court despite adequate opportunity. As regards the inquiry report dated 20.07.2020 and the statements recorded in the year 2020, the same pertain to proceedings initiated after the conviction of the petitioner and do not, prima facie, have a direct bearing on the ingredients of the offence under Section 138 of the Negotiable Instruments Act as adjudicated by the trial Court.

13. The plea raised by the petitioner that the cheque in question was stolen and that the agreement to sell was executed without consideration was very much available to him during the course of trial. The petitioner had full opportunity to lead defence evidence in support of the said stand. Section 391 Cr.P.C. cannot be invoked to enable a party to fill in omissions or to patch up weak points in the case after the conclusion of trial. The learned Appellate Court, while dismissing the application, has rightly observed that the evidence now sought to be produced was either available earlier or does not satisfy the test of necessity as contemplated under Section 391 Cr.P.C.

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14. The inordinate delay of nearly two years in moving the application, without any satisfactory explanation, further militates against the bona fides of the petitioner. The timing of the application indicates an attempt to protract the proceedings rather than a genuine effort to place material evidence before the Court.

15. It is also relevant to mention that in another connected complaint case bearing No. NACT/136/2018, a similar application under Section 391 Cr.P.C. was moved at the appellate stage, which too was dismissed by the lower Appellate Court. The order dated 24.04.2024 passed therein was challenged before this Court, and the said petition was dismissed by a Coordinate Bench vide order dated 05.02.2025 holding that there was no illegality, perversity or infirmity in the impugned order and the same was upheld. The factual matrix being substantially similar, the petitioner cannot seek a different view in the present matter.

16. On a cumulative consideration of the facts and circumstances of the case, this Court finds no illegality, perversity or jurisdictional error in the order dated 24.04.2024 passed by the learned Additional Sessions Judge dismissing the application under Section 391 Cr.P.C. The impugned order has been passed in consonance with the settled principles governing the exercise of power under Section 391 Cr.P.C.

17. Accordingly, finding no merit in the present petition, the same is hereby dismissed on merits.

18. Pending application(s), if any, is/are disposed of.

February 13, 2026
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(MANDEEP PANNU)
JUDGE

Whether speaking/non-speaking : Speaking
Whether reportable : Yes/No