IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No. 19184 of 2015 (O&M)
Date of decision: 8.6.2015

M/s Chadha Engg. Works and another

.. Petitioners

v.

Umesh Chadha

.. Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Nakul Sharma, Advocate for the petitioners.

...

Rajesh Bindal J.

Challenge in the present petition is to the order dated 18.5.2015, passed by the learned court below, whereby the application filed by the petitioners-complainants under Section 311 Cr. P. C. seeking to lead evidence in the form of VAT e-returns filed by them, has been rejected.

Learned counsel for the petitioners submitted that in the complaint filed by the petitioners under Section 138 of the Negotiable Instruments Act, 1881, the accused-respondent led evidence in the form of his VAT returns showing that the goods were neither received nor accounted for by him, which was incorrect, as the same are clearly reflected in their books of accounts. They wanted to produce those documents.

After hearing learned counsel for the petitioners, I do not find any merit in the present petition. The petitioners had ample opportunity to produce the documents during their evidence and cross-examine the witnesses produced by the accused-respondent including an official from the Excise and Taxation Department regarding the VAT e-returns filed by the respondent or the petitioners. The onus to prove that the amount was recoverable by the petitioners from the respondent was on them. They were required to lead evidence. After the conclusion of defence evidence, the application filed by the petitioners under Section 311 Cr. P.C. seeking permission to lead further evidence which was nothing else, but an effort to fill in the lacunae, which cannot be permitted. There is no error in the order passed by the learned court below.

Accordingly, the present petition is dismissed.

(Rajesh Bindal)
Judge

8.6.2015
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