

Crl. Misc. No.M-24419 of 2015 (O&M) with
Crl. Misc. No.M-24425 of 2015 (O&M) and
Crl. Misc. No.M-24431 of 2015 (O&M)

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

**Crl. Misc. No.M-24419 of 2015 (O&M) with
Crl. Misc. No.M-24425 of 2015 (O&M) and
Crl. Misc. No.M-24431 of 2015 (O&M)
Date of decision :- 25.08.2015**

M/s Paul Enterprises and another

.....Petitioner(s)

Versus

M/s Varun Beverages Ltd.

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Dinesh Ghai, Advocate
for the petitioner.

ANITA CHAUDHRY, J.

**CRM No.25131-2015 &
CRM No.26277-2015 &
CRM No.27574-2015 in
CRM-M-24419-2015**

For the reasons set out in the application, same are
allowed as prayed for and accompanying documents are allowed to
be taken on record.

CRM-M-24419-2015

These are three petitions filed under Section 482
Cr.P.C., seeking quashing of the order dated 17.03.2015, passed
by JMIC, Faridabad, whereby defence evidence of the accused-
petitioner was closed.

The counsel for the petitioner contends that he wants to summon the senior officers of the complainant company as his case is that the cheque book had been issued in 2001 and subsequently the same cheque book has been used in 2011 and the matter had already been satisfied and the amount which they owed was very less and he wants to summon the witnesses and he had not been granted sufficient opportunity and if he had to summon the officials of the complainant company, it could be done only with the assistance of the Court and he could not procure their presence on his own.

The backdrop is necessary. A complaint had been filed by the respondent under the Negotiable Instruments Act. The complainant had examined himself. His cross-examination was completed after the case had been adjourned 5 – 6 times. The zimini orders are available on record. After the statement of the accused was recorded on 28.01.2015, the case was adjourned five times to enable the accused to lead his defence. The case was fixed for 17.03.2015 for remaining evidence when an application (Annexure P-6) for deposit of diet money was filed by the accused. The petitioner had named seven senior officers of the complainant company and the Handwriting Expert. The application was allowed and the accused was permitted to deposit the diet money etc. at his own responsibility. A specific order was also passed that the

accused would not take the assistance of the Court as the matter had been already delayed. On the date fixed for evidence, no witness was present and since last opportunity had been granted, the defence evidence was closed.

It would be useful to reproduce the order passed on 07.03.2015, which reads as under:-

“File taken up today as an application for permission to deposit diet money of witnesses, moved. Perusal of the file reveals that vide order dated 4.3.2015 the case was adjourned to 17.3.2015 for defence evidence with last opportunity. DWs were ordered to be produced at own responsibility as no list of witnesses was filed. Today, an application for summoning the witnesses and for depositing the diet money filed. In these circumstances, no assistance can be issued for that date. As such it is directed that it shall be the responsibility of the applicant to procure the presence of the witnesses named in the application, at own responsibility. Further, depositing of diet money today would not be ground for the applicant to seek Court's indulgence to procure the presence of witnesses further and on subsequent dates. Subject to the aforesaid conditions, the application stands allowed.”

It would also be relevant to give the names of the persons who were sought to be summoned as witnesses:-

- i) Mr. Anil Singh, Manager Account*
- ii) Mr. Rishi Aggarwal General Manager*
- iii) Sanjay Yadav T.D.M. (Territory Development Manager)*
- iv) Mr. Anup Chhanna (M.U.M.) Marketing Unit Manager*
- v) Mr. Cris White, C.E.O.*
- vi) Mr. R.K. Jaipuria M.D.*
- vii) V.N. Dixit alongwith record of the original agreement with Paul Enterprises and M.O.U.*
All from R.J. Corporation, Plot No.31, Sec.44, Industrial Area, Near City Centre Metro Station Gurgaon pin code 122002.
- viii) Hand Writing Expert, Poonak Saini, Chamber No.101 (New Near Gate No.8, District Court, Gurgaon-122001.*

The record shows that case had been adjourned a number of times to enable the complainant to bring the documents which he had referred to during the course of his statements. The accused had the occassion to call any other document, if he wanted.

A perusal of the record shows that three separate complaints were filed in which similar applications have been filed with respect to different cheques though they are in one series. The statement of the accused had been recorded on 28.01.2015. Thereafter, the case was fixed for evidence of the defence. It was made clear to the accused that he would get only three adjournments. The accused failed to lead any evidence on the first three dates and subsequently he moved an application seeking to summon the Managing Director, the General Manager, the Manager Account of the complainant company. All these officers were not

summoned with any record. The petitioner wanted to summon V.N. Dixit along with the original agreement. The agreement is already exhibited. The petitioner wanted to summon the Handwriting Expert. It has not been explained as to why the Senior Manager of the complainant company were sought to be summoned. An attempt was made by the petitioner to explain and give reasons and Crl. Misc. No.M-24431 of 2015 was filed.

Having examined the various zimni orders and the orders passed by the Courts below, I find that the petitioner has moved the application only with a view to delay the disposal. A deliberate attempt has been made to summon the entire management of the respondent company. The petitioner has to prove his case by leading his evidence. A lengthy cross-examination had already been effected on the complainant's witnesses. The trial Court has seen the pace at which the trial was going and had noted that the petitioner was only delaying the trial. There is no reason to take a different view.

All the petitions are dismissed.

25.08.2015
sunil

**(ANITA CHAUDHRY)
JUDGE**