

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-26919 of 2015 (O&M)
Date of Decision: 13.08.2015

Ghan Shyam NataniPetitioner
Versus
State of Haryana and anotherRespondents

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

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| 1. Whether Reporters of local papers may be allowed to see the judgment? | Yes |
| 2. To be referred to the Reporters or not? | |
| 3. Whether the judgment should be reported in the Digest? | Yes |

Present:- Mr. Harinder Singh Sandhu, Advocate,
for petitioner.

SHEKHER DHAWAN, J (ORAL)

Present petition under Section 482 of Cr.P.C. with the prayer to quash the order dated 01.05.2015 (Annexure P-2) passed by Additional Sessions Judge, Karnal vide which revision petition was dismissed and the order passed by Judicial Magistrate 1st Class, Karnal dated 14.03.2014 was maintained.

2. Relevant facts for the purpose of decision of present petition that complainant Raj Roop (respondent No.2) in this case had filed complaint under Section 138 of Negotiable Instruments Act. During the trial of the case, examination-in-chief of complainant was recorded by way of affidavit on 28.10.2013. Cross-examination of the witness was deferred on different dates. Specific orders were passed that cross-examination be completed but still present petitioner failed to complete the cross-examination. The observations of trial Magistrate were that petitioner being respondent in the case failed to cross-examine the complainant and the intention was to delay

the proceedings of the case and treated the cross-examination as 'nil'. The said order was challenged before Additional Sessions Judge, Karnal and Additional Sessions Judge, while deciding the revision petition returned the findings that trial Judge had rightly dismissed the application after applying his judicious mind, as more than reasonable opportunities had already been given to the present petitioner to cross-examine the witness.

3. The sequence of evidence reveals that examination of complainant was recorded on 28.10.2013 and cross-examination was deferred on the same date. Then it was adjourned to 11.11.2013 and on that date cross-examination was not completed rather present petitioner failed to put in appearance and moved application for seeking exemption. Thereafter case was again adjourned to 15.11.2013 and cross-examination was not completed and the Magistrate rightly formed the opinion that very purpose of not completing the cross-examination was to delay the proceedings of the case only and the order was passed. Additional Sessions Judge rightly dismissed the revision petition as the discretion was lawfully exercised by Magistrate. It is not disputed that nobody can take the system to his whims only so as to delay the proceedings of the trial unreasonably causing unreasonable loss to the opposite party.

4. Learned counsel for the petitioner placed reliance upon judgment from Hon'ble Supreme Court in case **Hanuman Ram Vs. The State of Rajasthan and ors. 2008(4) RCR (Criminal) 823** wherein law was laid down that opportunity of cross-examination should be given. On the same point reliance was placed from judgment of Hon'ble Supreme Court in case **Hoffman Andreas Vs. Inspector of Customs, Amritsar 2000(4) Crimes**

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5. I have gone through the above referred judgments of Hon'ble Supreme Court and of the view that the facts of the case are entirely distinguishable. In the present case more than reasonable opportunities were given to the petitioner to cross-examine the witness but the same was not done only with the purpose to delay the proceedings of the case. Magistrate has rightly exercised the discretion lawfully decided and revision petition has rightly been dismissed by Additional Sessions Judge, Karnal.

6. In view of the above, the present petition being without any merit stands dismissed.

(SHEKHER DHAWAN)
JUDGE

August 13, 2015

msd