

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.M-34024 of 2014

.....

Date of decision:19.2.2015

Manpreet Kaur

.....Petitioner

v.

Jaswinder Singh

.....Respondent

....

Present: Mr. Ramandeep, Advocate for the petitioner.

Ms. Shruti Goyal, Advocate for the respondent.

.....

Inderjit Singh, J.

This petition has been filed under Section 482 Cr.P.C. praying for quashing of impugned order dated 23.9.2014 (Annexure-P.3) passed by learned Judicial Magistrate Ist Class, Jalandhar in criminal complaint No.29025/2013 dated 19.4.2006 for the offence under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter referred to as the 'NI Act'), whereby evidence of the petitioner has been closed by order.

Notice of motion has been issued in this case.

Ms. Shruti Goyal, learned Advocate has put in appearance on behalf of the respondent and contested this petition.

I have heard learned counsel for the petitioner and learned counsel appearing for the respondent and have gone through the record.

From the record, I find that Jaswinder Singh-complainant has filed the complaint against M/s Kashnoor Overseas Travels and Consultancy Services Private Limited, Amar Iqbal Singh and Manpreet Kaur under

Section 138 of the NI Act. Vide impugned order dated 23.9.2014, the learned Judicial Magistrate Ist Class, Jalandhar, closed the defence evidence of the petitioner by order. The Court after considering request of the learned counsel for the accused had issued process to said witness who had come present on that day, but he had not brought the summoned record and the learned counsel for the accused asked for short adjournment for summoning that record. It is also written in this order that the Court asked the counsel as to how the record is essential for the present case.

A perusal of the record shows that though the case is seven years old as stated in the order, but the defence evidence cannot be closed only on the ground that it is seven years old case. The order dated 18.9.2014, which has been placed on record as Annexure-P2, shows that the witness had been summoned by issuing non-bailable warrants. If he had not brought the record or the record is somewhere else, which is to be produced, then, in no way, the accused can be held liable or can be held that she is interested in delaying the case. Further more, the order dated 18.9.2014 Annexure-P.2 shows that the Court summoned the witness by stating that on verbal inquiry from the defence counsel, it transpired that evidence of this witness is very much essential to reach at the right conclusion as well as for delivery of justice.

Therefore, keeping in view the facts and circumstances of the present case, I find merit in the present petition and the same is allowed. The petitioner is given one opportunity to produce the evidence at her own responsibility along with the record before the trial Court. However, she

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could take the dasti notice and if the witness is served and does not come present, then the trial Court can take coercive action and can adjourn the case. Otherwise, no further adjournment should be given to the petitioner.

With these directions, the present petition is allowed.

February 19, 2015.

(Inderjit Singh)
Judge

hsp