

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-3770-2014

Date of decision: 20.07.2015

Pushpinder Singh

... Petitioner

Vs.

Surjit Hire Purchase Ltd.

... Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. M.S. Sodhi, Advocate
for the petitioner.

Mr. Harkaran Singh, Advocate for
Mr. B.S. Bhalla, Advocate
for the respondent.

1. Whether reporters of local papers may be allowed to see the judgment? YES/NO
2. To be referred to the reporters or not? YES/NO
3. Whether the judgment should be reported in the digest? YES/NO

RAMESHWAR SINGH MALIK, J.

Feeling aggrieved against the impugned order dated 10.01.2014 passed by learned Additional Sessions Judge, Moga, whereby order dated 18.03.2013 passed by learned Chief Judicial Magistrate, Moga, dismissing application filed by the petitioner to cross-examine CW1 Rajinder Singh, in a complaint case under Section 138 of the Negotiable Instruments Act, was dismissed, has approached this Court by way of instant petition under Section 482 of the Code of Criminal Procedure ('Cr.P.C.' for short) for quashing of the impugned orders.

Notice of motion was issued, directing the learned trial Court to

adjourn the case beyond the date fixed before this Court.

Learned counsel for the petitioner submits that no delay in proceeding before the learned trial Court has been caused at the instance of the petitioner. He refers to the impugned order dated 18.03.2013 passed by learned Chief Judicial Magistrate, Moga, to contend that this witness CW1 Rajinder Singh appeared on 20.02.2013 and on the said date, his examination-in-chief was recorded. Cross-examination of this witness was deferred to 01.03.2013. On the said date, counsel for the petitioner could not cross-examine this witness and the case was adjourned to 13.03.2013 on payment of Rs.200/- as costs. On the next date of hearing i.e. 13.03.2013, said witness could not be cross-examined because counsel for the petitioner was not feeling well. Impugned order passed by the learned Chief Judicial Magistrate was challenged by the petitioner before the learned Additional Sessions Judge, by way of revision petition which also came to be dismissed by the learned Additional Sessions Judge vide impugned order dated 10.01.2014, without appreciating true facts of the case. He prays for only one opportunity to cross-examine the CW1 Rajinder Singh.

On the other hand, learned counsel for the respondent submits that petitioner has been delaying the trial. He had already sought many adjournments and more than two effective opportunities had already been granted to the petitioner to cross-examine CW1 Rajinder Singh but the petitioner failed to do so. There were no compelling circumstances disclosed by the petitioner because of which he was unable to cross-examine this witness. He prays for dismissal of the present petition.

Having heard the learned counsel for the parties at considerable

length, after careful perusal of the record of the case and giving thoughtful consideration to the contentions raised, this Court is of the considered opinion that in the given fact situation of the present case, petitioner has been found entitled for one more opportunity to cross-examine CW1 Rajinder Singh. It is so said because both the learned Courts below have failed to appreciate the valuable right of the accused to cross-examine the witness of the complainant. A serious prejudice was likely to be caused to the accused, denying him the opportunity to cross-examine the witness. On the other hand, no prejudice was going to be caused to the complainant, in case the accused was granted one more opportunity.

In view of the above and without commenting anything further on merits of the case, lest it should prejudice the rights of either of the parties, present petition is allowed. Petitioner is granted one more opportunity to cross-examine CW1 Rajinder Singh.

Since learned counsel for the parties are not aware about the next date of hearing fixed before the learned trial Court, the learned trial Court is directed to grant one more effective opportunity to the petitioner to cross-examine CW1 Rajinder Singh either on the date already fixed or on the next date of hearing.

With the abovesaid observations made and directions issued, present petition stands disposed of.

[RAMESHWAR SINGH MALIK]
JUDGE

20.07.2015
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