

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

CRM No.M-41438 of 2015 (O&M)

Date of decision: 07.12.2015

Raj Goyal

...Petitioner

Versus

Punjab State Warehousing Corporation

...Respondent

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. Sunny K. Singla, Advocate for the petitioner.

Jitendra Chauhan, J. (Oral)

This petition under Section 482 of the Code of Criminal Procedure has been filed for quashing of the impugned order dated 28.10.2015 (Annexure P-3), passed by the Addl. Chief Judicial Magistrate, Sangrur, vide which the application filed by the respondent for leading additional evidence was allowed.

The brief facts of the case are that the respondent had filed a complaint under Section 138 of the Negotiable Instruments Act 1881 against the petitioner and Ashok Kumar alleging that the petitioner is a partner of M/s Ashoka Rice Mill and the said firm are running the business of Rice shelling at Bhawanigarh. That the firm in discharge of its liability had issued cheque no. 468917 dated 01.11.2011 for a sum of Rs. 20 lacs, similarly cheque no. 468919 dated 30.11.2011 for a sum of Rs. 20,09,322/- in favour of the complainant and when the complainant

presented the above cheques, they were returned unpaid with remarks “Insufficient Funds”.

The learned counsel for the petitioner contends that the learned trial Court has passed the impugned order dated 28.10.2015 (Annexure P-3) in a very casual manner and without any cogent reason. The respondent/complainant has been afforded sufficient opportunity to lead his after charge evidence and the same was closed on 30.07.2015 by his counsel. The statement of accused under Section 313 Cr.P.C., has also been recorded. The petitioner/accused has already disclosed his defence in his statement under Section 313 Cr.P.C., therefore, now at this belated stage, leading of additional evidence by the respondent will prejudice the case of the petitioner. The respondent/complainant has not mentioned the reason and name of witnesses in the application and even in the impugned order, the trial Court has also not mentioned the name of witness to whom, the respondent wants to examine by way of additional evidence. The learned counsel refers to Annexure P-2, the application moved by the respondent and states that Sh. SK Jindal, District Manager, who has filed the complaint was retired in the month of May, 2014 and after him, Sh. D.P Singh has joined as District Manager and thereafter, Sh. Jinder Singh Kataria has joined as New District Manager, through which the application for leading additional evidence was filed and now Sh. D.P. Singh is posted as District Manager, whereas the learned trial Court has allowed the application stating that the complainant wants to examine Sh. Jinder Singh Kataria but he is not posted as District

Manager, Sangrur. The learned counsel cites Budh Ram Vs. State of Punjab, 1996(2) RCR (Criminal) 270 and states the impugned order dated 28.10.2015 (Annexure P-3) is illegal and contrary to law.

Heard.

A bare perusal of the record would reveal that the petitioner has issued cheque No. 468917 dated 01.11.2011 for a sum of Rs. 20 lacs and another cheque No. 468919 dated 30.11.2011 for a sum of Rs. 20,09,322/- towards his liability but the same have been returned with remarks 'insufficient funds'. Thereafter, the respondent-Corporation has filed the present complaint under Section 138 of the Negotiable Instruments Act against the petitioner. The respondent-Corporation only wants to examine the District Manager or any other competent officer to bring certain facts on record. The citation cited by the learned counsel is distinguishable on facts as in the present case. However, considering the fact that the respondent has closed his evidence, the trial Court shall ensure that no fresh case is set up by the respondent by way of leading additional evidence as stated in the impugned order.

There is no illegality or irregularity in the impugned order dated 28.10.215 (Annexure P-3) and accordingly the present petition is hereby dismissed.

07.12.2015

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(JITENDRA CHAUHAN)
JUDGE