

CRM-M-41911-2015 (O&M)

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

**CRM-M-41911-2015 (O&M).
Decided on: December 11, 2015.**

Dharminder Singh

.. Petitioner(s)

VERSUS

Jagjit Singh @ Jagjit Singh Sidhu and another

.. Respondent(s)

*** * ***

CORAM: HON'BLE MR.JUSTICE M.M.S.BEDI

*** * ***

**PRESENT Mr.Davinder Bir Singh, Advocate,
for the petitioner.**

M.M.S. BEDI, J. (ORAL)

Petitioner is facing proceedings under Section 138 of the Negotiable Instruments Act. The cross-examination of the complainant-respondent indicates that a specific defence has been raised by the petitioner that the complainant-respondent and the petitioner had obtained a joint loan from one Harpreet Singh. The same had been repaid by the petitioner alone and that the complainant had obtained the cheques from Harpreet Singh and used the same to prosecute the petitioner.

Counsel for the petitioner has argued that the application for summoning Harpreet Singh as defence witness had been filed. Notice was issued to said witness but he did not appear. Without granting an opportunity to resummon him, the trial Court has closed the defence evidence vide order dated 1.12.2015.

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I am satisfied from the cross-examination of the complainant that the defence plea has been specifically put to the complainant but no document appears to have been placed on record indicating that Harpreet Singh had ever been cited as a defence witness or summoned as a witness.

Counsel for the petitioner states that Harpreet Singh had been cited and summoned as defence witness.

Counsel for the petitioner has brought to my notice that the case is fixed for final arguments today.

Without expression of any opinion on merits of this case, I am of the opinion that if the facts mentioned by the petitioner are correct, he has got a remedy to move an application under Section 311 Cr.P.C. for resummoning Harpreet Singh.

This petition is disposed of with a direction that in case the arguments have not been heard by 12 O'clock today and an application is filed today under Section 311 Cr.P.C., for summoning Harpreet Singh, the trial Court shall not finally decide the complaint without deciding the application under Section 311 Cr.P.C.

A copy of the order be communicated to the Sub Divisional Judicial Magistrate, Nihalsingh Wala, by FAX as well as telephonically, forthwith.

Counsel for the petitioner may intimate the order passed to the local counsel telephonically in order to enable the counsel to move an application under Section 311 Cr.P.C. for

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summoning Harpreet Singh above said.

Order passed and pronounced at 11:55 PM.

Order by uploaded on the Internet by lunch hours.

(M.M.S.BEDI)
JUDGE

December 11, 2015.
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