

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

CRR-4526-2015

Date of decision: 26.11.2015

M/s AMT Forging Company and another

...Petitioners

Versus

Gupta Iron and Steel Traders

...Respondent

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Balram Singh, Advocate,
for the petitioner.

SABINA, J

Petitioners have filed this petition challenging the order dated 16.10.2015, whereby application moved by the petitioners under Section 391 of Criminal Procedure Code, 1973 ('Cr.P.C.' for short), was dismissed.

Petitioners had faced trial in a complaint filed by the respondent under Section 138 of the Negotiable Instruments Act, 1881 ('of the Act' for short). Vide judgment/order dated 23.03.2015, petitioners were convicted and sentenced qua commission of offence punishable under Section 138 of the Act. Aggrieved against the said judgment/order of their conviction and sentence, petitioners preferred an appeal. During the pendency of the appeal, petitioners moved an application under Section 391 Cr.P.C. seeking permission to lead additional evidence. By way of additional evidence,

petitioners wanted to examine the concerned clerk/record keeper of Punjab National Bank, Branch Kishan Pura along with record to establish that the payment of the cheque in question had been stopped. Petitioners further want to examine Tarwinder Singh (son of petitioner No.2) and to prove attested copy of the statement of Harish Gupta-complainant. Vide impugned order the said application under Section 391 Cr.P.C. was dismissed. Hence, the present petition.

I have heard learned counsel for the petitioners and have gone through the record available on the file, carefully.

Learned Appellate Court while dismissing the application held that the application had been filed merely to delay the disposal of appeal. In the facts and circumstances of the present case the reason given by the Appellate Court while dismissing the application appears to be sound reason. Now by way of additional evidence petitioners want to establish on record that the payment of the cheque in question had been stopped. The said information was already in the knowledge of the petitioners and they should have established the said fact while leading their defence evidence before the trial Court. Further the petitioners want to examine Tarwinder Singh to establish the fact that he was not working with his father-petitioner No.2 prior to 01.04.2011 as he was not on talking terms with his father due to some personal dispute. The said fact was also in the knowledge of

the petitioners and they should have established the same while leading their defence evidence before the trial Court. Further petitioners want to prove on record statement of Harish Gupta, Annexure P-6 which was recorded during inquiry by the police on 15.11.2014. The said statement was also recorded by the police before the conclusion of the trial. Thus, if the said statement was relevant, the petitioners should have proved the same on record while leading their defence evidence.

Hence, no ground for interference is made out.

Dismissed.

November 26, 2015
kapil

(SABINA)
JUDGE