

104

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR No.4565 of 2015

Date of decision: November 28, 2015

M/s S.K. Modgil Rice Mills

.....Petitioner

Versus

M/s Sekhon Gram Udyog Samiti and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. L.S. Sidhu, Advocate
for the petitioner.

SABINA, J

Petitioner has filed this petition challenging the order dated 03.11.2015.

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

Respondents are facing trial qua commission of offence punishable under Section 138 of the Negotiable Instruments Act, 1881 on a complaint filed by the petitioner. During the pendency of the trial, respondents No.1 and 2 moved an application for permission to lead additional evidence qua application mark 'C' or in the alternative respondents No.1 and 2 sought a direction that the petitioner be permitted to produce original application mark 'C'.

Trial Court vide order dated 14.09.2015 dismissed the said application. Aggrieved against the said order, respondents No.1 and 2 preferred a revision petition. The Court of revision vide the impugned order dated 03.11.2015 allowed the petition and consequently permitted the respondents No.1 and 2 to prove

the contents of the application mark 'C' by way of secondary evidence, subject to proof of its due execution. The learned Court of revision while allowing the petition has taken in consideration that respondent No.2-accused Subeg Singh had alleged that a compromise had been effected between him and the petitioner in the presence of witnesses. Petitioner had signed the application mark 'C' in the presence of witnesses after receiving the cheque amount in question. The case of the respondents No.1 and 2 was that the original of application mark 'C' was in the possession of the petitioner. Since the original application mark 'C' had not been placed on record, the learned Court of revision rightly held that in these circumstances, it was in the interest of justice to allow the respondents No.1 and 2 to prove the contents of application mark 'C' by way of secondary evidence, subject to proof of its due execution. Further the Court of revision has only granted two opportunities to the accused Subeg Singh to lead his evidence in this regard by taking *dasti* summons as the complaint in question pertains to the year 2011.

The reasons given by the Court of revision while allowing the revision petition and consequently, application moved by the respondents No.1 and 2 for permission to lead additional evidence qua mark 'C', are sound reasons and call for no interference.

Dismissed.

(SABINA)
JUDGE

November 28, 2015
mahavir