
IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.126

CRM No.M-11051 of 2016
DECIDED ON: April 11, 2016

RAJNESH KAUR

..PETITIONER

VERSUS

HARCHARAN SINGH

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

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

JASPAL SINGH, J

Smt. Rajnesh Kaur has preferred instant petition under Section 482 Cr. P.C. seeking setting aside the order dated February 26, 2016 (Annexure P-4), whereby learned trial court has allowed the application under Section 311 Cr.P.C. for summoning the concerned clerk of Corporation Bank, Branch Batala, District Gurdaspur along with record of cheque book Nos. 9840 to 9850 pertaining to account No. 50133 of Rajnesh Kaur w/o S. Hardev Singh d/o Jagdish Singh, resident of House No. 747, Captain Wali Gali, Ajit Nagar, Aliwal Road, Batala, District Gurdaspur.

It has been contended by learned counsel for the petitioner is

that the impugned order has been passed by learned trial court after the recording of her statement under Section 313 Cr.P.C. as well as examination of the defence witnesses just to fill up lacuna.

No reason has been unfolded in the application as to why the witness who has sought to be summoned by way of additional evidence has not been examined in affirmative evidence. In fact, the cheque bearing Nos.9840 to 9850 of the Corporation Bank, Branch Batala were stolen by the husband of the petitioner/accused, out of which, the cheque in question was handed over to the complainant to file the present false complaint just with an intention to put pressure upon her and to arrive at a compromise pertaining to the litigation pending between the petitioner and her husband.

Thus, the impugned order dated February 26, 2016, passed by learned trial court is not sustainable and the examination of the witness sought to be examined by way of an additional evidence is not essential to adjudicate the controversy effectively or judiciously. Hence, order dated February 26, 2016 is liable to be set aside and consequently, application under Section 311 Cr.P.C. deserves to be dismissed in toto.

This Court has given an anxious thought to the aforesaid submissions made by learned counsel for the petitioner but find the same to be of no legal substance.

No doubt, the case of the petitioner-accused before the learned trial court is that her husband Hardev Singh stolen her cheque book bearing cheques No.9840 to 9850 issued by the Corporation Bank, Branch Batala, District Gurdaspur and one of the cheque has been given to the complainant by him just to lodge a complaint under Section 138 of the Negotiable

Instruments Act, 1881 against her. Through, the examination of the Clerk of the Corporation Bank, respondent No.2 has only sought to clarify whether any cheque between serial No.9840 to 9850 except the cheque in question bearing No.9845 was got en-cashed from the bank and if so by whom. The examination of the witness would certainly throw some light on the controversy and help the trial court to arrive at a just and proper adjudication of the matter in controversy. The examination of the clerk is essential to arrive at a just conclusion.

Thus, this Court is of the considered view that impugned order is legally justified and the examination of the witness is not going to be cause prejudice to either of the parties to the instant lis. This Court does not find any infirmity or illegality of the impugned order.

Accordingly, instant petition being devoid of merit stands dismissed.

April 11, 2016
Ankur

(JASPAL SINGH)
JUDGE