

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CRM No.M-14125 of 2016(O&M)****Date of Decision: April 27, 2016**

Pavan Datta

...Petitioner

VERSUS

Gagandeep Chawla and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGHPresent: Mr.Tanmoy Gupta, Advocate
for the petitioner.

INDERJIT SINGH, J.

Petitioner has filed this petition under Section 482 Cr.P.C. against State of Punjab and other respondents for quashing of order dated 05.03.2016 passed by learned Judicial Magistrate Ist Class, Gurgaon, vide which the application dated 05.03.2016 filed by the petitioner for summoning the witnesses was declined.

I have heard learned counsel for the petitioner and have gone through the record.

From the record, I find that Pavan Datta filed a complaint against Gagandeep Chawla, Arun Ahuja and Rekha Ahuja under Sections 499, 500 and 120-B IPC. The copy of the complaint has been placed on the record, which is Annexure P-2. The perusal of the contents of the complaint shows that complainant and accused have the business partnership real estate. Then a dispute arose between

them. The matter even went to Delhi High Court to the Company Court etc. After summoning, case was fixed for pre-charge evidence of the complainant. As per the impugned order, last opportunity was given to the complainant to produce the evidence. On 05.03.2016, the complainant examined himself partly in pre-charge evidence and his cross-examination was deferred as Court time was over. One more PW namely Sham Talwar was present and he got his presence marked. No other PW was present despite specific order that if the complainant failed to conclude pre-charge evidence, then the same shall be closed by Court order. On that day, when the last opportunity was granted and this order was passed, then an application for summoning six witnesses was filed by the complainant. The Magistrate held that the complainant has already availed five opportunities but failed to conclude the pre-charge evidence and when last opportunity is granted, then this application has been filed.

In view of this conduct, the Court held that the complainant is not serious towards his complaint and the application was dismissed. The trial Court adjourned the case for 07.05.2016 only for cross-examination of PW-1 and examination of PW Sham Talwar only.

I have also gone through the record. The application filed by the complainant for summoning Clerk/office staff of Arbitrator Mrs.Manju Goel, Clerk of Addl. Commissioner of Police South East Delhi, Clerk of Interpol, Clerk of Government of India, Ministry of Home Affairs, Clerk of Airtel with location of mobile number and Clerk of Assistant Director/Central Foreigners Bureau. There is nothing in

the application as to how these witnesses are relevant with the case, what facts they would prove and how they are essential to be examined in this case. Nothing has been shown that names of these witnesses have been mentioned in the list of witnesses in the complaint. There is nothing that any permission is sought from the Court to examine these witnesses. Nothing is there as to how these witnesses are material witnesses and what facts they would depose and how they are relevant for the decision of the case. The filing of the application for summoning witnesses after availing five opportunities for leading evidence, especially when last opportunity is granted, shows that the application in question has been filed only for the purpose of delaying the proceedings and to harass the respondents.

In view of the above discussion, I find that impugned order dated 05.03.2016 passed by learned JMIC, Gurgaon, is correct, as per law and does not require any interference from this Court.

Therefore, finding no merit in the present petition, the same is dismissed.

April 27, 2016
Vgulati

(INDERJIT SINGH)
JUDGE