

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.M-17833 of 2016

.....

Date of decision:30.11.2016

Ashwani Kumar Shoor

.....Petitioner

v.

Sushma Verma and another

.....Respondents

....

Present: Ms. Jyoti Sareen, Advocate for the petitioner.

Mr. Vinay Puri, Advocate for the respondents.

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Inderjit Singh, J.

This petition has been filed under Section 482 Cr.P.C. for setting aside the order dated 29.4.2016 (Annexure-P.7) passed by learned Judicial Magistrate Ist Class, Amritsar in complaint No.14156 dated 24.7.2013 titled “Smt. Sushma Vema and another Vs. Ashwani Kumar Shoor”, vide which last opportunity has been granted to the petitioner to make balance payment. He has further prayed for directions to the learned Judicial Magistrate Ist Class, Amritsar, to grant extension of time by six months to make balance payment of ₹17.40 Lakhs to respondents along with interest @ 6% per annum for the delayed period.

Notice of motion was issued in this case.

Mr. Vinay Puri, learned Advocate has put in appearance on behalf of the respondents and contested this petition.

I have heard learned counsel for the parties and have gone

through the record.

From the record, I find that as per Annexure-P.7, the complainant was examined in the Court but the counsel for the accused/ present petitioner did not cross-examine the complainant and gave the statement that he does not want to cross-examine the complainant and admitted the liability. Therefore, the cross-examination of the complainant was treated nil. Now application under Section 311 Cr.P.C. was filed for recalling the complainant, which the learned Magistrate has rightly dismissed vide the impugned order dated 29.4.2016. When the accused himself has admitted the liability and stated that he does not want to cross-examine the complainant, therefore, it is not just for the complainant that now he can ask for recalling the complainant for cross-examination. Furthermore, during the recording of statement under Section 313 Cr.P.C. again the accused has admitted his liability. The Court below in view of these facts has granted the accused one more opportunity to make the entire payment on 27.5.2015 failing which the appropriate order will be passed. The impugned order had been passed on 29.4.2016 and about one month's time has been granted by the learned Magistrate. A perusal of the impugned order shows that the accused made statement dated 1.9.2015 and agreed to make the payment of ₹14 Lakhs to the complainant and on 29.4.2016 the date was fixed for making the payment by the accused. A perusal of the impugned order dated 29.4.2016 shows that no illegality has been committed by the Magistrate. It is for the trial Court in the facts and circumstances of the case to see as to how much time is to be given to the

[3]

complainant and the complainant as a matter of right cannot ask for specific time.

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

November 30, 2016.

(Inderjit Singh)
Judge

hsp

NOTE:	Whether speaking/reasoned:	Yes
	Whether reportable:	No