

In the High Court of Punjab and Haryana at Chandigarh

.....

Criminal Misc. No.M-24841 of 2016

.....

Date of decision:25.7.2016

Karnail Chand

.....Petitioner

v.

Rakesh Chopra and another

.....Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

.....

Present: Mr. Vijay Lath, Advocate for the petitioner.

.....

Inderjit Singh, J.

This petition has been filed under Section 482 Cr.P.C. for quashing/setting aside of order dated 7.4.2016 passed by learned Judicial Magistrate Ist Class, Jalandhar, which was passed during the examination of witness DW-1. It has further been prayed for staying the proceedings in complaint case No.30394/2013 of 22.9.2011 titled as “Rakesh Chopra and another Versus Karnail Chand”.

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

From the record, I find that the learned Judicial Magistrate Ist Class, Jalandhar recorded the statement of DW-1 HC Gurdev Singh in complaint case filed under Section 138 of Negotiable Instruments Act, 1881 (hereinafter referred to as `NI Act'). The examination-in-chief was recorded on 30.3.2016 and cross-examination was deferred. On 7.4.2016, cross-examination was recorded, but before the witness signed the statement, the

counsel for the complainant requested to further put question to the witness. The counsel for the accused objected to the recording of further cross-examination as already print out had been taken. Learned counsel for the accused raised an objection that before moving an application for further cross-examination, it cannot be allowed. The Court overruled this objection and stated that the witness has not signed the same and allowed the counsel for the complainant to further ask the question.

A perusal of these proceedings nowhere shows that the Court has committed any illegality. The Court has ample powers to conduct proceedings in the interest of justice and to do substantial justice between the parties. Under Section 311 Cr.P.C., the Court can examine any witness, who is present in the Court. It is mere a technical objection that an application for this purpose should have been filed. Even an oral request of counsel for the complainant to further cross-examine the witness at that very moment, in no way, amounts to any illegality.

Therefore, from the above discussion, I find that the impugned order passed by the Court below for further cross-examination of the witness, who was present in the Court on that day, cannot be treated amounting to miscarriage of justice.

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

July 25, 2016.

(Inderjit Singh)
Judge

hsp

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