

**126 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM-M-43237-2016
Date of decision-02.12.2016**

**Surinder Singh
Vs.
Manjit Singh**

**...Petitioner

...Respondent**

CORAM:- HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Pankaj Khullar, Advocate for the petitioner.

JITENDRA CHAUHAN, J. (Oral)

This petition under Section 482 of the Criminal Procedure Code has been filed for setting aside the impugned order dated 16.05.2016 (Annexure P-3) passed by learned Judicial Magistrate First Class, Ludhiana vide which application dated 06.02.2016 (Annexure P-2) filed by the petitioner/accused under Section 311 Cr.P.C. in a complaint filed under Section 138 of the Negotiable Instruments Act has been dismissed. The revision filed by the petitioner was also dismissed by learned Additional Sessions Judge, Ludhiana.

By moving an application (Annexure P-2), the petitioner wants to examine the concerned Clerk of the Income Tax Office, Ludhiana along with record pertaining to the PAN of the complainant/respondent.

It is contended by learned counsel for the petitioner that re-examination of the witness is very much essential for the just decision of the case. It is further contended that the complainant has admitted that he had been running his business in the name of Onkar Building Material Store, Ludhiana.

Vide impugned orders learned trial Court as well as Court of learned Additional Sessions Judge has declined the prayer of the petitioner for recalling of witness by observing that despite sufficient opportunities, the petitioner had failed to produce any witness in his defence. Otherwise also the evidence of the petitioner was ordered to be closed. Instead of challenging that order, the petitioner has chosen to file application under Section 311 Cr.P.C. The petitioner cannot be permitted to fill up the lacunae. The fact as to whether the complainant is income tax assessee or not is far stretched so far as the proceedings under Section 138 of Negotiable Instruments Act are concerned. No fault can be found with the well reasoned orders of the Courts below. This Court feels that no cause of action has arisen in favour of the petitioner to invoke the inherent jurisdiction of this Court by way of filing the instant petition.

Consequently, present petition is dismissed.

(JITENDRA CHAUHAN)
JUDGE

December 02, 2016

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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No