

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-M-43460-2016 (O&M).
Decided on: December 5, 2016.

Tek Chand

.. Petitioner(s)

VERSUS

Shyambir Singh

.. Respondent(s)

*** * ***

CORAM: HON'BLE MR.JUSTICE M.M.S.BEDI

*** * ***

**PRESENT Mr.J.S.Hooda, Advocate,
for the petitioner.**

M.M.S. BEDI, J. (ORAL)

A perusal of impugned order dated 5.11.2016, indicates that request made on behalf of petitioner-accused, for adjournment on account of illness of his counsel, had been rejected and on account of associated counsel Mr.Sandep Aggarwal, having refused to cross-examine the material witness, the cross-examination was treated as NIL.

Without expression of any opinion, at this stage, whether the request for adjournment was bona fide or whether declining an opportunity to the petitioner-accused to cross-examine through his counsel would be reasonable, I am, prima facie, of the opinion that unnecessary harassment has been caused to the complainant resulting in delay in adjudication of his complaint under Section 138 of the Negotiable Instruments Act. The trial Court, in the peculiar circumstances of this case, could have compensated the complainant as per the provisions of Section 309, Explanation 2, of the Code of Criminal Procedure, by awarding costs of adjournment.

Taking into consideration the fact that issuing notice to the complainant would further result in unnecessary harassment and delay and financial burden on the complainant, this petition is disposed of in limine with a direction that the petitioner will put in appearance before the trial Court and move an application under Section 311 Cr.P.C. to resummon the complainant for cross-examination along with a bank draft of Rs.10,000/-, in the name of the complainant or a sum of Rs.10,000/- in cash to be payable to the complainant. The trial Court shall allow the said application and hand over the bank draft/amount to the complainant before permitting his cross-examination.

The above said order has been passed in limine in order to save the time and expenditure of the complainant, in the interest of justice. If the order is not acceptable to the complainant, it will be open to him to approach this Court for review of the order.

A copy of the order be uploaded on the internet forthwith in order to enable the petitioner to avail the benefit on next date of hearing before the trial Court which is stated to be tomorrow.

(M.M.S. BEDI)
JUDGE

December 5, 2016.
rka

Whether speaking / reasoned
Whether reportable:

Yes / No
Yes / No