

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

(1) CRM No.M-748 of 2016 (O&M)

Tajendra

...Petitioner

VERSUS

Ramesh Chand Sharma and others

...Respondents

(2) CRM No.M-1174 of 2016 (O&M)

Tajendra

...Petitioner

VERSUS

Ramesh Chand Sharma and others

...Respondents

Date of Decision: November 15, 2016

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Shiv Kumar, Advocate
for the petitioner.

None for the respondents.

INDERJIT SINGH, J.

Both the above-mentioned are taken up together as the point for
determination is the same in both the cases.

Petitioner has filed these petitions under Section 482 Cr.P.C.
against Ramesh Chand Sharma and other respondents for quashing of orders
dated 08.12.2015 passed by learned JMIC, Faridabad, vide which the

applications filed by the petitioner under Section 311 Cr.P.C. for leading

additional evidence have been dismissed.

Notice of motion was issued in both the cases. Earlier, learned counsel for the respondents was appearing but today, none appeared on behalf of the respondents.

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

From the record, I find that in complaint cases filed by Tajendra against Ramesh Chand Sharma, Kamlesh and Rakesh under Section 138 of the Negotiable Instruments Act, applications under Section 311 Cr.P.C. were filed by the complainant-petitioner for examining witnesses mentioned in the list of witnesses, who could not be inadvertently produced before the Court. It is stated in the applications that there is no malafide intention of the complainant in filing the applications and he intends to produce the Bank Manager from Syndicate Bank, NIT Faridabad, where the cheque was presented and bouncing report was handed over to the complainant and further intending to examine Manager of State Bank of Patiala, from where the cheque No.442571 was issued. Learned Magistrate, after hearing the parties, dismissed the applications.

From the record, I find that learned counsel for the petitioner stated that the names of these witnesses have been given in the list of witnesses but these witnesses have not been examined inadvertently. Other two witnesses have been examined by the complainant.

The perusal of the record shows that both the witnesses are officials of the bank and are material witnesses to do the substantial justice between the parties. Their statements are necessary for proper adjudication

of the case. No prejudice would be caused to the respondents who will have

the opportunity to cross-examine the witnesses. Otherwise also, these witnesses are to depose only as per the record of the banks.

As the evidence of these witnesses are necessary and essential for the just decision of the case, therefore, learned Magistrate should have allowed the applications under Section 311 Cr.P.C. but has wrongly dismissed the same.

Therefore, finding merit in both the petitions, the same are allowed. The orders dated 08.12.2015 passed by learned JMIC, Faridabad, are set aside and the applications under Section 311 Cr.P.C. are allowed.

November 15, 2016
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No