

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR No. 724 of 2014
DECIDED ON: July 12, 2016

BOOTA RAM

....PETITIONER

VERSUS

AJIT INDER SINGH

....RESPONDENT

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Ms. Savita Rana, Advocate,
for the petitioner.

Mr. B.D. Sharma, Advocate,
for the respondent.

JASPAL SINGH, J.

Challenge in this revision petition is to the order dated 16.01.2014 whereby an application moved by the petitioner under Section 311 Cr.P.C. seeking recalling the complainant-respondent for further cross-examination, has been dismissed.

2. While assailing the impugned order dated 16.01.2014, it has been urged by learned counsel for the petitioner that application under Section 311 Cr.P.C. was preferred by the petitioner for further cross-examination of respondent-complainant, in view of his contradictory statement made in case FIR No.15, dated 05.02.2010, under Sections 420, 465, 467, 468, 471 and 120-

B IPC, Police Station Maqsudan, Jalandhar, which has been wrongly declined. In fact, due to a *bona fide* mistake on behalf of counsel appearing before the trial court, certified copy of the statement of the complainant-respondent recorded in the above referred case could not be placed on record as learned counsel appearing before the trial court was of the view that the copy of statement will be presented in the court at the time of further examination of respondent-complainant. Even otherwise, further cross-examination of respondent-complainant is essential for the proper adjudication of the matter in controversy, in which, he has admitted part re-payment of the amount of the cheque in question.

3. On the other hand, learned counsel for the respondent has supported the impugned order submitting that ample opportunity has already been afforded to the petitioner by ld. trial court for cross-examination of respondent-complainant. Even during cross-examination of respondent-complainant, no question was put to him to the effect that the part payment has already been made by the petitioner to him. Rather, the entire case of the prosecution revolves around the fact that digit “9” has been inserted later on in the cheque in question and the loan obtained by the petitioner from the complainant-respondent was only to the tune of ₹5000/-. As such, there is no relevancy of any statement made in case pertaining to the aforesaid FIR. In fact, application under Section 311 Cr.P.C. as well as instant petition have been filed by the petitioner just to delay the disposal of the complaint and that too, with *mala fide* intention.

4. This Court has given an anxious thought to the rival submissions made by learned counsel for the parties and has perused the record(s) available.

5. Undisputably, complainant-respondent was examined and cross-examined before the trial court on 25.10.2012 and 04.12.2012 and at that time, the petitioner has already made the part payment and even no suggestion to this effect was made. Rather, it was only pleaded and projected by the petitioner during cross-examination that figure “9” has been inserted falsely and in fact, the cheque was only in respect of a sum of ₹5000/-. Now, on the basis of mere contradiction appearing in the complaint case as well as State case, no cause of action can be said to have arisen to the petitioner to file an application under Section 311 Cr.P.C. If anything has emerged during the cross-examination of respondent-complainant in the case got registered by the mother of the complainant-respondent, that is not at all relevant for the disposal of complaint preferred by respondent-complainant under Section 138 of the Negotiable Instruments Act. Rather, it appears that the application has been moved just to delay the proceedings in the complaint.

6. Finding no merit in the instant petition, the same is dismissed.

July 12, 2016
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(JASPAL SINGH)
JUDGE