

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.18358 of 2017
Date of decision: 26.09.2017

Rajeev Kumar Tyagi

.... Petitioner

versus

Vikas Singh

.... Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Manoj Kumar Sood, Advocate
for the petitioner.

Mr. B.S.Tewatia, Advocate
for the respondent.

Hari Pal Verma, J.

The petitioner, an accused in a complaint under Section 138 of Negotiable Instruments Act, 1881 and Section 420 IPC, has filed the present petition under Section 482 Cr.PC for quashing of order dated 11.05.2017 (Annexure P-4) whereby the application filed by him under Section 311 Cr.PC to summon the below mentioned witnesses was dismissed:

- i) The concerned clerk/dealing hand from the office or Sub Registrar Ballabgarh along with the record of sale deed No.14677 dated 12.12.2011.
- ii) Sh. Bijender S/o Sh. Shyambir r/o Village Neemka Tehsil and District Faridabad along with original agreement vide vasika No.14408 dated 09.12.2011 and original sale deed vide vasika No.9599 dated 29.08.2012.

The application was dismissed primarily on the ground that it was filed at the stage when the case was already fixed for final arguments.

Learned counsel for the petitioner has argued that the petitioner has no intention to delay the trial in any manner. The very fact of the sale deed No.14677 dated 12.12.2011 has come to the knowledge of the petitioner on 01.05.2017, the date on which he got the certified copy of the registered sale deed registered in the name of Sheela Devi, mother of the respondent-complainant. In her cross-examination, she has denied that she ever purchased any house after she had sold her house. Therefore, the statement of Sheela Devi is wrong as she had purchased the house on 12.12.2011.

Learned counsel for the complainant/respondent has argued that the petitioner is intentionally delaying the proceedings and the witnesses sought to be summoned are not relevant for adjudication of the present case. He further submits that the petitioner is involved in number of other cases including a complaint under Section 138 of Negotiable Instruments Act, 1881 titled as *M/s Jai Krishna Liquors Pvt. Ltd. vs. Rajeev Kumar Tyagi* whereby petitioner was convicted and sentenced to undergo simple imprisonment for a period of one year alongwith the compensation vide judgment dated 15.10.2015 passed by Id. JMJC, Faridabad.

I have heard learned counsel for the parties.

Though the order dated 11.05.2017 passed by learned Magistrate declining the prayer of the petitioner under Section 311 Cr.PC shows that the application so as to summon the aforesaid witnesses was filed at the stage when the case was fixed for arguments, but having regard to the judgment passed by the Apex Court in the case of *Rajaram Prasad Yadav vs. State of Bihar & anr. (2013) 3 RCR (Criminal) 726* whereby the

Apex Court has formulated guidelines, while dealing application under Section 311 Cr.PC., this Court finds that in the interest of justice, the petitioner is to be granted one more opportunity to conclude his evidence. However, it is made clear that so far the prayer of the petitioner to examine the witness namely Bijender s/o Shyambir is concerned, the same is rightly declined by the trial Court. However, the prayer to examine the witness No. (i) is accepted. The prayer for examination of the concerned clerk/dealing hand from the office of Sub Registrar, Ballabgarh is subject to payment of Rs.15,000/- as costs, which shall be paid to the respondent-complainant before the examination of the said witness i.e. the concerned clerk/dealing hand from the office or Sub Registrar, Ballabgarh along with the record of sale deed No.14677 dated 12.12.2011. It is made clear that petitioner will be given only one effective opportunity to examine the said witness.

With the aforesaid observations, the present petition is disposed of.

(HARI PAL VERMA)
JUDGE

26.09.2017

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1. Whether speaking/non-speaking?	Yes
2. Whether reportable?	Yes/No