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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-20061-2016 [O&M]

Date of Decision:- August 29, 2017

Sukhwinder Singh

....Petitioner

Versus

Tejinder Singh

....Respondent

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present: Mr. Rahul Rampal, Advocate,
for the petitioner.

Mr. Rakesh Gupta, Advocate,
for the respondent.

SHEKHER DHAWAN, J.

Present petition under Section 482 of Code of Criminal Procedure [Cr.P.C.] is for setting-aside order dated 18.05.2016 (Annexure P/4) passed by learned Judicial Magistrate Ist Class, Ludhiana whereby the respondent-complainant has been allowed to submit evidence after notice.

2. Facts relevant for the purpose of decision of this case; that a complaint under Section 138 of Negotiable Instruments Act, 1881 (for short, "the Act") was filed for dishonour of cheque amount to Rs.12.00 lakhs by respondent – complainant, Tejinder Singh. Complainant led preliminary evidence and present petitioner was summoned as an accused and on appearance, present petitioner moved an application under Section 145(2) of the Act for grant of permission to cross-examine the complainant/CWs. The Court below allowed the cross-examination of the Tejinder Singh (CW-1) and the cross-examination was continued for

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two different dates, i.e., on 11.05.2016 and 18.05.2016. On the same day, i.e. 18.5.2016, respondent – Tejinder Singh made the following statement:-

“ Stated that I want to lead after notice evidence and as such, I be permitted to produce the certified copies of the sale deed dated 27.02.2013 and 15.03.2013.”

3. On this, the Court passed the following order on 18.05.2016:-

“ CW-1 present and examined. Complainant has given statement that he want to examine after charge evidence. He is allowed to submit his after notice evidence. He tender into evidence documents and close his complainant evidence after notice. Now, the case is adjourned to 25.05.2016 for recorded (recording) the statement U/s 313 Cr.P.C.”

4. Respondent-complainant tendered documents, Ex. C/6 and C/7 i.e. Sale deeds dated 27.02.2013 and 15.03.2013 respectively.

5. The petitioner is aggrieved of the said order dated 18.5.2016 (Annexure P/4) passed by learned Judicial Magistrate Ist Class, Ludhiana.

6. Learned counsel for the petitioner placed reliance upon judgment from Hon`ble Supreme Court in **Indian Bank Association and Others Vs. Union of India and others**, 2014(2) R.C.R. (Criminal) 598, wherein Hon`ble Apex Court was dealing with the matters relating to the offences under the Act and provisions of Section 145 of the Act. Hon`ble Supreme Court while discussing relevant provisions of law relating to nature of the offences and procedure of summary to be adopted in such like matters with an object of expeditious trial held that as per provisions of Section 145(2) of the Act, after complainant has led evidence by way of

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affidavit, on such an application, the witness was to be summoned for cross-examination.

7. There is no denial to the fact that such like offences under Section 138 of the Act are required to be taken up expeditiously and in the present case, learned Magistrate had dealt with the matter expeditiously and the complainant was summoned for cross-examination on 11.5.2016 and as the cross-examination remained inconclusive, the same was completed on 18.5.2016. On that day, the application was moved for producing certified copies of the sale deeds i.e., Ex. C/6 and C/7, which was allowed on the same day and as such, there was no question of any delay at any stage. The evidence was closed on the same very date i.e., 18.5.2016.

8. Learned counsel for the respondent contended on the basis of the record that the production of these documents, i.e., Ex. C/6 and C/7 (Sale deeds) was necessary as the questions were put to him in the cross-examination which the complainant never expected while filing the complaint and for that purpose, application was moved and same was allowed.

9. In view of the above facts that in compliance with provisions of Section 145(2) of the Act, the cross-examination of the complainant was completed expeditiously and the evidence of the complainant was concluded on the same date i.e., 18.05.2016, the production of documents, Ex. C/6 and C/7 was relevant for the decision of the case in view of the cross-examination of the complainant. The Court below allowed the same and there is nothing to set-aside the said order. The judgment relied upon by learned counsel for the petitioner in **Indian Bank**

Association's case (supra) is distinguishable on facts.

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10. In view of the above, there is no illegality in the impugned order dated 18.05.2016 (Annexure P/4) passed by learned Judicial Magistrate Ist Class, Ludhiana. The present petition stands dismissed.

August 29, 2017
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(SHEKHER DHAWAN)
JUDGE

Speaking/Reasoned
Reportable

Yes
Yes