

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-24448 of 2017 (O&M)

Date of Decision: 27.07.2017

Jagsir Singh

... Petitioner

VERSUS

State of Punjab and another

... Respondents

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Jatinder Singh Mundi, Advocate
for the petitioner.

SURINDER GUPTA, J.

This is petition against the order dated 20.3.2017 and 11.5.2017 passed by Judicial Magistrate Ist Class, Patiala.

Complaint for offence punishable under Section 138 of Negotiable Instruments Act was filed against the petitioner in the year 2010. Perusal of the order shows that this complaint was dismissed at one point of time and was restored vide order dated 11.9.2015. The petitioner did not appear in the complaint and was declared Proclaimed Offender vide order dated 15.2.2016. He could be arrested on 17.2.2017 and thereafter for cross examination of complainant he was allowed adjournment for 28.2.2017, 2.3.2017 and 15.3.2017 but the complainant was not cross examined for the lapse on the part of petitioner and his counsel. He was burdened with costs of ₹500/- and the complaint was adjourned to 20.3.2017. On that day, the petitioner was present with his counsel but did not cross examine the complainant. Even the costs was also not paid and ultimately the trial court passed the order closing the opportunity for petitioner to cross examine the complainant. Thereafter, he moved application under Section 311 of Cr.P.C. which was also dismissed vide order dated 11.5.2017.

Learned counsel for petitioner has argued that the witness was not cross examined due to the lapse on the part of the counsel for petitioner in the trial court. He seeks one opportunity for the petitioner to cross examine the complainant and undertake that the petitioner will not seek any further adjournment.

So far as the first contention of learned counsel for the petitioner is concerned, I find the same devoid of any merit as the counsel for the petitioner in lower court was present on 20.3.2017 and it was the petitioner who had not paid the costs. For non-payment of costs imposed by the court and he could not be allowed to cross examine the complainant and there is no explanation to the non-payment of costs by petitioner.

However, keeping in view the undertaking given by learned counsel for the petitioner and also in the interest of justice to provide one more opportunity to petitioner to cross examine the complainant, so that his statement may not go un-rebutted, this petition is allowed. Petitioner is granted one opportunity to cross examine the complainant on the date so given by the trial court subject to payment of ₹10,000/- as costs which will be deposited with District Legal Services Authority, Patiala. On production of receipt of deposit of this amount within a period of two weeks from today, the trial court will fix one date for cross examination of complainant and in the event of cross examination of complainant being not conducted on that date, no further adjournment shall be given.

This petition has been decided without issuing notice to the respondents in order to avoid unnecessary delay and expenses. A copy of this order be conveyed to the private respondent.

July 27, 2017*deepak***(SURINDER GUPTA)
JUDGE***Whether speaking/reasoned: Yes/No**Whether Reportable: Yes/No*