

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-25633-2017
Date of Decision: 20.07.2017

Rachpal

..... Petitioner

Versus

Ludhiana Co-operative Bank

..... Respondent

CORAM: HONBLE MR. JUSTICE SUDIP AHLUWALIA

Present: Ms. Rahish Pahwa, Advocate,
for the petitioner.

SUDIP AHLUWALIA J. (ORAL)

This petition is directed against the order dated 07.06.2017 passed by the Ld. Judicial Magistrate Ist Class, Ludhiana in COMA-12598-2014, which is a complaint under Section 138 of the Negotiable Instruments Act read with Section 420 of the IPC.

Vide impugned order, the Ld. Magistrate had rejected the application filed on behalf of the petitioner/accused in which he had prayed for de-exhibiting a document placed on the record on behalf of the complainant/respondent No.2, which was marked as Exhibit C-6.

After hearing both sides, the Ld. Magistrate dismissed the application by observing *inter alia* -

“Even if, for the sake of argument we assume that the document has been wrongly tendered or exhibited, even then it is settled proposition of law that mere exhibiting a document does not mean that it is admissible in evidence. The admissibility of document shall be scanned at the time of arguments. If at that time it comes on record that the

document has not been exhibited as per provisions of law or have not been proved as per the provisions of Indian Evidence Act, then the same will not be read into as evidence. Moreover, no provision of law provides for de-exhibition of document already exhibited in the evidence. The same view has been endorsed by Hon'ble Punjab & Haryana High Court in case titled as **Dr. S.P. Arora Versus Satbir Singh, 2010 (5) R.C.R. (Civil) 350**. So, keeping in view the discussion made above, no ground is made out at this stage to de-exhibit the document. Hence, the application in hand is hereby declined.”

(Emphasis added)

From the high-lighted extracts in the aforesaid impugned order, it is seen that the Ld. Magistrate is fully conscious of the fact that an angle of non-admissibility could be involved in relation to the disputed document although *ex-facie* it does not appear to be so. As such, the interest of the petitioner/accused has been clearly and visibly protected since the question of final acceptance of document as being admissible in evidence or not, has been kept open till the stage of arguments or after closure of evidences is arrived at in the case.

This Court, therefore, finds no reason to intervene, or delay the trial in the pending case by unnecessarily issuing notice to the respondent. Suffice it to say that the petitioner shall be at liberty to raise the question of admissibility of the document at the final stage of the arguments, if so called for.

Dismissed.

20.07.2017

Bhumika

**(SUDIP AHLUWALIA)
JUDGE**

1. Whether speaking/reasoned: Yes
2. Whether reportable: No