

119.

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

I. CRM-M-31519-2016 (O&M)
Date of decision:29.11.2017.

SHYAM LAL ... Petitioner

versus

JAI BHAGWAN Respondent

II. CRM-M-33969-2016 (O&M)

SHYAM LAL ... Petitioner

versus

RANBIR SINGH Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Rajesh Bansal, Advocate,
for the petitioner.

Mr. Jasbir Singh Mor, Advocate,
for the respondents.

HARI PAL VERMA, J. (Oral)

This order shall dispose of two petitions i.e. CRM-M-31519-2016 titled as 'Shyam Lal Versus Jai Bhagwan' and CRM-M-33969-2016 titled as 'Shyam Lal Versus Ranbir Singh'. Since facts in both the petitions are similar, however, for facility, the facts have been taken from CRM-M-31519-2016.

The petitioner-accused has filed the present petition for setting aside the impugned order dated 22.07.2016 (Annexure P-5) passed by learned Additional Sessions Judge, Panipat, whereby his application filed under Section 391 Cr.P.C. seeking permission to produce certified copy of the statement of Suresh, who was working as Accountant/Munim with the petitioner and conversant with the 'Mundi' Hindi language, in his additional evidence, was dismissed.

Learned counsel for the petitioner states that respondent/complainant has filed a complaint against the petitioner under Section 138 of Negotiable Instruments Act on 16.08.2010. The said complaint was decided by learned Judicial Magistrate Ist Class, Panipat vide his judgment dated 15.05.2013, whereby the petitioner-accused was convicted and vide separate order dated 20.05.2013, he was sentenced for a period of two years. The judgment of conviction and sentence was challenged by way of appeal before the learned Additional Sessions Judge, Panipat, which is pending adjudication. He further states that the statement dated 20.01.2015 made by Suresh who was otherwise working as Accountant/Munim with the petitioner, is relevant so as to prove his case that it is the complainant himself who is in arrears of money towards the petitioner-accused. Since the statement was made on 20.01.2015, the petitioner had moved the application under Section 391 Cr.P.C. on 10.03.2015 seeking permission to produce additional evidence which was otherwise prompt in in time.

He further states that the petitioner is ready to compensate the

respondent-complainant and there is no oblique motive on the part of petitioner/accused to delay the proceedings in any manner.

On the other hand, learned counsel for the respondent-complainant has argued that apart from the fact that the application is not relevant in the matter in dispute, the very motive of the petitioner is to delay the proceedings in one way or the other. He states that the Accountant/Munim, namely, Suresh was already working with the petitioner and, therefore, it is but presumed that the petitioner is well conversant with his statement.

I have heard learned counsel for the parties.

Considering the fact that the application filed under Section 391 Cr.P.C. seeking permission to produce certified copy of statement of Suresh in his additional evidence had been moved on 10.03.2015 and the statement was made by said Suresh on 20.01.2015, it cannot be held that the application, so moved under Section 391 Cr.P.C. has been filed with some delay. The petitioner is an accused and, therefore, in order to take his defence, the petitioner deserves one more opportunity to place on record the statement dated 20.01.2015 made by Suresh. Since the petitioner has confined that he shall not adduce any other evidence and has restricted his prayer only to take on record the statement dated 20.01.2015, no prejudice is going to be caused to the respondent.

Accordingly, both the petitions are disposed of with a direction to the Lower Appellate Court to grant one more effective

opportunity to the petitioner to take on record the statement of Suresh, Accountant/Munim, dated 20.01.2015.

Since this Court has bothered the respondents and has called upon them to contest the present petitions, petitioner shall be afforded one opportunity only subject to payment of ₹10,000/- each.

The order whereby this Court had restrained the lower appellate court to pass the final order shall come to an end. It is expected that the lower appellate court shall expedite the appeal.

(HARI PAL VERMA)
JUDGE

29.11.2017
sanjeev

Whether speaking/reasoned? Yes/No
Whether reportable? Yes/No