

240.

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

CRM-M-35821-2016

Date of decision:04.10.2017.

KOUSHLANDER GUPTA AND ANOTHER

... Petitioners

versus

BALAJI TRADING COMPANY

.... Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Gaurav Jindal, Advocate,
for the petitioners.

Mr. Sharad Aggarwal, Advocate,
for the respondent.

HARI PAL VERMA, J. (Oral)

Prayer in this petition filed under Section 482 Cr.P.C. is for setting aside the order dated 12.09.2016 passed by learned Judicial Magistrate Ist Class, Panipat, whereby the application moved by the petitioner-accused seeking direction to the respondent-complainant to produce documents before the Court was dismissed by the learned Magistrate.

The respondent-complainant had filed a complaint under Section 138 of Negotiable Instruments Act, 1881 (for short, 'the Act') and during the pendency of said complaint, an application was filed by the petitioner-accused before the trial Court seeking direction to the respondent-complainant to produce the documents as admitted by him during his cross-examination.

Learned counsel for the petitioner has argued that the complainant has not produced the documents i.e. Bill Book, Income Tax Returns for the year 2012-13, Balance Sheet for the year 2012-13, Ledger Accounts, Day Book, General Ledger, PAN Number of the Firm and bank account statement of the firm in support of his complaint. Once the documents have been admitted by the complainant in his cross-examination, he is bound to produce those documents. In support of his contention, he has relied upon the judgment of Madras High Court rendered in **Madras Sea Food Agency Versus RDJ Sea Foods-2010(3) MWN (Cr.) 142 (DCC)** and judgment of Madhya Pradesh High Court rendered in **S.K. Singhal Fathechand Snghal Versus State of M.P., decided on 21.09.1996.**

On the other hand, learned counsel for the respondent has argued that the respondent-complainant has already tendered documents i.e. Exs.C-1 to C-9 in his evidence and, therefore, the filing of the application seeking direction to the complainant to adduce documents, as stated in the application submitted by the petitioner-accused, is nothing, but an attempt to delay the proceedings.

I have heard learned counsel for the parties and perused the order dated 12.09.2016 passed by learned Magistrate. This Court does not find any illegality in the order dated 12.09.2016 for the reason that the complainant has already adduced his evidence i.e. Exs.C-1 to C-9 in support of his evidence and, therefore, in case, the complainant has not produced the Bill Book, Income Tax Returns for the year 2012-13,

Balance Sheet for the year 2012-13, Ledger Accounts, Day Book, General Ledger, PAN Number of the Firm and bank account statement of the firm, the consequence will fall upon the complainant only. Under the criminal law, the prosecution/complainant is required to prove their case and if complainant fail to prove its case, he will face the consequences. Thus, the petitioner who is an accused in the complaint filed under Section 138 of the Act cannot dictate the complainant as what document/evidence is required to be placed by him.

In view of above, present petition is dismissed.

(HARI PAL VERMA)
JUDGE

04.10.2017
sanjeev

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