

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

CRM No.M-35347 of 2017

Date of decision: 03.11.2017

Raj Kamal

....Petitioner

Versus

Shri Ram Transport Finance Co. Ltd.

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Surinder Garg, Advocate for the petitioner.

Mr. G.S. Sandhu, Advocate for the respondent.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this petition is for setting-aside the order dated 06.09.2017 (Annexure P2) passed in criminal complaint No.167-2 dated 13.05.2016 in NACT No.85/2015 dated 23.09.2015 under Section 138 of the Negotiable Instruments Act (in short 'the Act'), vide which the defence evidence of the petitioner/accused in a complaint filed under Section 138 of the Act was closed.

It is submitted by counsel for the petitioner that the petitioner was leading his defence evidence when the same was closed vide impugned order dated 06.09.2017. Counsel for the petitioner has referred to the earlier interim orders passed by the trial Court to show that one or two occasions, the defence witness was present but he could not be examined for want of record and has requested for a short adjournment and on the adjourned date also, the statement could not be recorded. One of the witness namely Avtar Sandhu despite service did not appear before the trial Court and, therefore, bailable warrants were issued for procuring his presence and thus, it is submitted that the

petitioner/accused was making serious efforts for concluding his defence evidence.

On the other hand, counsel for the respondent has stated that he has no objection if one effective opportunity is granted to the petitioner to conclude his entire defence evidence.

Accordingly, the petition is allowed; the impugned order dated 06.09.2017 is set-aside and the trial Court is directed to afford one effective opportunity to the petitioner/accused for concluding his entire evidence. However, it may be clarified that in case any witness who has been served and has not appeared before the trial Court, the trial Court will ensure his/her presence by taking coercive method.

The parties through their counsels are directed to appear before the trial Court on 20.11.2017 and, thereafter, the trial Court will fix the case for recording the defence evidence.

(ARVIND SINGH SANGWAN)
JUDGE

03.11.2017
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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No