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

**\*\*\*\***

**CRM-M-40043-2017  
Date of Decision: 26.10.2017**

**\*\*\*\***

Mazbur Singh

..... Petitioner

Versus

State Bank of India

..... Respondent

**CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA**

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

**SUDIP AHLUWALIA J. (ORAL)**

This petition is directed against the impugned order dated 09.08.2017 (Annexure P-4) passed by the Ld. Judicial Magistrate First Class, Faridkot. The application dated 08.07.2016 (Annexure P-3) filed by the petitioner, who happens to be the accused in the criminal complaint pending in the Ld. Court below under Section 138 of the Negotiable Instruments Act, was rejected by the Ld. Judicial Magistrate First Class, Faridkot.

[2]. In that application, the petitioner had sought summoning of the complete record of Account No.0072010031280 of the Oriental Bank of Commerce, Satta Bazar, Kotkapura Branch, Kotkapura, District Faridkot as well as the Cheque Book from which the disputed cheque No.043690 was allegedly issued. His contention was that such documents were required to confront the complainant's witness during his proposed cross-examination.

[3]. Ld. Trial court, however, rejected the application by observing

*inter alia:-*

*“....Perusal of judicial file reveals that the complainant witness is yet to appear in the witness box for his cross-examination. At that time the accused would have the appropriate time to ask about the possession of above said documents as mentioned in the headnote of the application. Furthermore, the complainant in his complaint has specifically stated that in order to discharge the debt liability, the accused Majboor Singh issued a cheque No.043690 dated 29.09.2014 worth Rs.3,05,000/- in favour of complainant bank. It is pertinent to mention here that the present case arising out of cheque in dispute is pertaining to cheque No.043690 and account No.0072010031280 which is alleged to be of accused and the accused has moved the present application seeking to whom this account No.007210031280 and cheque No.043690 belongs. Even otherwise, the accused would have ample opportunities to seek any document from the Oriental Bank of Commerce, Satta Bazar, Kotkapura Branch in his own defence evidence. At this stage, the present application is not maintainable and accordingly the same stands dismissed....”*

[4]. This Court finds no infirmity in the reasoning of the Ld. Trial Court in rejecting the petitioner's prayer. This is so because as rightly observed by the Trial Court, the petitioner would have ample opportunity to seek whatever documents he needs from the concerned Oriental Bank of Commerce in support of his defence as and when the stage arises. However, as an abundant precaution, this Court is inclined to ensure that any valuable right accruing to the defence side is not vitiated due to mechanical observation of the procedural formalities.

[5]. The petition is, therefore, disposed off after affirming the impugned order passed by the Ld. Court below but with a liberty to the petitioner to seek recall of the complainant's concerned witness at a later stage for confronting him with any such documents which might be otherwise led into the evidence earlier from the defence side, at the appropriate stage.

**26.10.2017**

*Bhumika*

**(SUDIP AHLUWALIA)  
JUDGE**

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