

CRM-M-41917 of 2017

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

CRM-M-41917 of 2017
Date of Decision: 08.11.2017

Prem Kumar

....Petitioner

Versus

State of Punjab and another

....Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. Sandeep Arora, Advocate, for the petitioner.

RAMENDRA JAIN, J. (ORAL)

Prayer in the instant petition under Section 482 Cr.P.C. has been made for grant of an opportunity to recall and further cross-examine three prosecution witnesses, namely, complainant Inderjit Singh, Investigating Officer ASI Subhash Chander and vendor Amarjit Singh by setting aside the impugned order dated 23.10.2017 (Annexure P-4) of the trial Court, dismissing the application of the petitioner-accused under Section 311 Cr.P.C.

Learned counsel for the petitioner contends that the impugned FIR (Annexure P-1) was got registered by complainant Inderjit Singh against the petitioner with the allegations that the petitioner cheated him approximately for ₹ 17,23,500/-, which the petitioner did not pay to the vendor against the cheques taken by the petitioner from the complainant and, therefore, the complainant had to pay the said amount to the vendor.

However, the vendor, complainant and the investigating officer could not be

~~cross-examined~~ on the abovesaid points due to negligence of the earlier counsel. The factum of return of the cheques to the complainant by the

CRM-M-41917 of 2017

petitioner and the related questions are very necessary to be put to the aforesaid witnesses for bringing on record the true picture before the trial Court, which has dismissed the application of the petitioner illegally under Section 311 Cr.P.C.

After giving thoughtful consideration to the submissions made by learned counsel for the petitioner-accused and going through the impugned order, this Court is of the considered opinion that at least two witnesses, namely complainant Inderjit Singh and vendor Amarjit Singh are required to be recalled for their further cross-examination to bring on record the actual truth about the transaction which allegedly took place between the complainant, petitioner and the vendor qua two cheques allegedly issued by the complainant in favour of the vendor on the asking of the petitioner.

Therefore, the impugned order dated 23.10.2017 (Annexure P-4) is set aside. The trial Court is directed to recall complainant Inderjit Singh and vendor Amarjit Singh for their further cross-examination by the petitioner, subject to payment of costs of ₹ 20,000/- to be deposited with the State Legal Services Authority, Punjab.

This petition is disposed of without issuing notice to the respondents with a view to impart justice to the parties and to save the huge expenses which may be incurred by the respondents and also to avoid unnecessary delay in the adjudication of the matter. Still, if dissatisfied, the respondents may move this Court for recalling this order within one month from today.

November 08, 2017
R.S.

(RAMENDRA JAIN)
JUDGE