

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

**Criminal Misc. No. M-4548 of 2017
Date of Decision:-01.8.2017**

Prithvi Nath Sharma

...Petitioner

Versus

Sat Prakash

...Respondent

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Mr. D.S. Matya, Advocate
for the petitioner.

Mr. Praduman Yadav, Advocate
for the respondent.

HARI PAL VERMA J.

Prayer in this petition filed under Section 482 Cr.P.C. is for quashing of impugned orders dated 30.3.2015 (Annexure P-1) passed by the Judicial Magistrate 1st Class, Gurgaon and dated 13.6.2016 (Annexure P-2) passed by the Additional Sessions Judge, Gurgaon respectively.

Briefly stated the respondent-complainant has filed a complaint against the petitioner under Section 138 of the Negotiable Instruments Act (hereinafter called 'the Act'). As per the complaint, respondent-complainant has given a friendly loan to the petitioner to the tune of Rs.50,00,000/- on 10.8.2013 vide cheque No.002333 of ICICI Bank, Badshahpur. Thereafter, in order to repay the said amount of loan, the petitioner issued a cheque

No.053186 dated 12.4.2014. However, when the cheque was presented, it was dishonoured with the remarks “Funds Insufficient”.

Through the instant petition, the petitioner has impugned the order dated 30.3.2015 whereby the cross-examination of complainant (CW1) was deemed to have been shown as NIL. Challenge has also been raised to the order dated 13.6.2016 whereby the revision petition filed against the order dated 30.3.2015 was dismissed by learned Additional Sessions Judge, Gurgaon.

Learned counsel for the petitioner without arguing the matter on merits, submits that let the petitioner be given one effective opportunity to cross-examine the complainant (CW1), whose examination-in-chief has already been recorded.

Learned counsel for the respondent states that though ample opportunities have been granted to the petitioner to cross-examine the complainant but the petitioner has not cross-examined the same and, therefore, the petitioner is not entitled for any further opportunity.

Be that as it may on considering the fact that the provisions of Section 311 Cr.P.C. are more or less liberal and as the petitioner has prayed only one more effective opportunity to cross-examine the complainant (CW1), this Court finds that petitioner deserves to be granted one effective opportunity but considering the fact that despite various opportunities he has not cross-examined the complainant, this Court finds that the petitioner must compensate the Court time. Therefore, in the facts and circumstances of the case, the trial Court is directed to grant one effective opportunity to

the petitioner to cross-examine the complainant (CW1) Sat Parkash, however, that would be subject to payment of Rs.20,000/- as costs, to be deposited with the Haryana State Legal Services Authority, Chandigarh.

The parties are directed to appear before the trial Court on the date already fixed there i.e. 09.8.2017.

Disposed of.

August 01, 2017
Vijay Asija

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned

Yes / No

Whether Reportable

Yes / No