

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

CRR No. 1750 of 2016 (O&M)

DATE OF DECISION :- September 06, 2017

Rajinder Kumar

...Petitioner

Versus

Devender Sharma

...Respondent

CORAM: HON'BLE MR. JUSTICE H.S. MADAN

Present:- Mr. Naveen Dahiya, Advocate for the petitioner.

Ms. Seema Pasricha, Advocate for the respondent.

The challenge in this Revision Petition is order dated 3.5.2016 vide which application under Section 311 Cr.P.C. filed by accused for recalling the complainant/respondent for cross examination had been dismissed. Briefly stated facts of the case are that complainant Devender Sharma had filed a complaint under Section 138 of the Negotiable Instruments Act against Rajender Kumar-accused, wherein he was summoned and trial got started. During the course of trial, statement of complainant was recorded on 1.5.2014. Thereafter an application under Section 311 Cr.P.C. was filed by the accused on 29.3.2016 for recalling CW 1 Devender Sharma for further examination for the reason that there are several contradictions in the version of the complainant and documents were not exhibited by the complainant. The witness could not be cross examined properly as such it is essential to recall the complainant for further cross examination. The application was opposed by the complainant contending that the same had been filed with an ulterior motive in order to prolong the case. That evidence of complainant had been concluded.

Statement of accused was recorded. He led evidence in defence. Arguments were also advanced. Written arguments were submitted and further at the fag end the accused moved an application in question. After hearing the counsel learned SDJM, Bahadurgarh dismissed the application. Feeling aggrieved, the petitioner has filed the present Revision Petition, notice of which given to the respondent to put in appearance.

I have heard learned counsel for the parties.

I find that there is absolutely no merit in the petition. It has to be noted that the petitioner has approached this Court straightway without filing the petition in the Court of Sessions. The application submitted by the accused was quite vague without specifying as to why material questions could not be asked. There is nothing to show that the counsel representing the applicant was not competent. Further more the application was filed quite belatedly when the trial was at the fag end. The trial Magistrate has passed well reasoned order dismissing the application. I do not find any reason to upset the order by exercising the revisional jurisdiction. Thus the petition stands dismissed.

(H.S. MADAAN)
JUDGE

September 06, 2017

p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No