

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

CRM-M-13525-2018

Date of decision:-2.4.2018

Ravinder Khosla

...Petitioner

Versus

N.B. Fabrics

...Respondent

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

Present: Mr.Abdul Shehbaz Thind, Advocate
for the petitioner.

H.S. MADAAN, J.

The petitioner is feeling aggrieved by the order dated 28.2.2018 passed by Judicial Magistrate Ist Class, Ludhiana vide which he had dismissed an application under Section 91 Cr.P.C. moved by accused to summon the record of police as well as civil Court for conducting the proper and effective cross-examination of CW1 – Nishant Batra.

The trial Court while dismissing the application has given following reasons:

After giving a thoughtful consideration to the averments of the learned counsel for the accused as well as complainant and perusal of the documents on record, I am of the considered opinion that present application is devoid of any merit and has been moved by the applicant in order to delay the trial. Perusal of the file shows that the respondent

has admitted the pendency of the civil litigation between him and the applicant and it is settled law that facts admitted need not to be proved. In the present case also the applicant can put the certified copy of the civil litigation between them to the witness as it has been admitted by him. As far as, the documents regarding complaints dated 2.1.2017 and 28.2.2017 are concerned, the respondent has denied about the pendency of said applications. Moreover, copy of complaint dated 2.1.2017 attached with the application by the applicant does not bear any endorsement number from the police authority to show that any application has been moved by the applicant with the police authority.

Complaints under Section 138 NI Act are required to be tried summarily and it is duty of the applicant/accused to arrange for proper record for the purpose of cross-examination of the respondent on being granted an opportunity to cross-examine the complainant. Even, as per the law settled by the Hon'ble Supreme Court of India in "Indian Bank Association & others Vs. Union of India and Others 2014(2) R.C.R.(Criminal)598", this Court is bound to try the present complaint summarily. The averments of the applicant in the present application are least convincing to grant an opportunity to him to summon the record from the police authority which shall not serve any purpose for the adjudication of the matter in dispute. Therefore, this Court is

of the considered opinion that present application is mere tactic on the part of the applicant/accused to delay the trial and is devoid of merit,hence, stands dismissed.

I have heard learned counsel for the petitioner besides going through the record and I find that there is no illegality or infirmity in the impugned order much less the order being perverse or having been passed against settled principles of criminal law, which might have called for interference by this Court.

Finding no merits in the petition, the same stands dismissed.

2.4.2018
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No