

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

CRM-M-14099-2018

Decided on : 05.06.2018

Malkiat Singh

... Petitioner

Versus

Babli

... Respondent

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present : Mr. M.S.Yadav, Advocate, for
Mr. Sunny K.Singla, Advocate, for the petitioner.

Mr. Harish Sharma, Advocate for the respondent.

G.S. Sandhawalia, J. (Oral)

In the present petition filed under Section 482 of Cr.P.C., the challenge is to the order dated 13.03.2018 (Annexure P-2) passed by the Judicial Magistrate 1st Class, Ludhiana, whereby the evidence of the complainant has been closed, on the ground that the complainant availed 21 effective opportunities to conclude the evidence. The Court has observed that on 08.02.2018 last opportunity was granted for cross-examination of the complainant, but the complainant was not present. Keeping in view the fact that the case has become time bound, the impugned order has been passed and the case was fixed for recording the statement of accused under Section 313 Cr.P.C.

Counsel for the petitioner has pointed out that for two cheques the complaint had been filed. The zimni orders have been referred to show that the complainant had been initially examined way back on 15.02.2016 and the matter was adjourned for cross-examination and for want of documents. On three occasions when the complainant was present on 14.03.2016, 18.04.2016 and 24.05.2016, the case was adjourned on the request for cross-examination by counsel for accused/respondent. Thereafter, also on 26.09.2016, 02.11.2016 and 19.12.2016, the complainant was not cross-examined. Costs of ₹500/- was also imposed, which were

paid on 24.01.2017.

Thereafter, also the complainant was present on 15.03.2017 and also on 23.05.2017 when he was further cross-examined, but cross-examination was again deferred. Further cross-examination was done on 20.09.2017 and last opportunity was then granted on 12.10.2017, when the petitioner was present but was not ready for cross-examination. Eventually on 16.11.2017 and 08.01.2018, last opportunities were granted and the same order was repeated on 08.02.2018.

A perusal of the said orders would go on to show that the trial Court has led proceedings drift and summary proceedings under Section 138 of the Negotiable Instruments Act have been extended by the accused for repeated cross-examination of the complainant. Eventually evidence has been closed without looking into the earlier zimni orders as to how the accused has also delayed the proceedings.

In such circumstances, this Court is of the opinion that the order dated 13.03.2018 (Annexure P-2) closing the evidence of the complainant is not justified. Accordingly, the same is set aside. The trial Court will give three effective opportunities to the complainant to produce the balance evidence. The Court shall further ensure that the cross-examination of the complainant will not be unnecessarily deferred as has been done on earlier occasions.

Accordingly, the petition is allowed.

JUNE 05, 2018
Naveen

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No