

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-21393-2018

Date of decision: 01.08.2018

Harnek Singh

....Petitioner

Versus

Pankaj Grover

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Jaideep Verma, Advocate
for the petitioner.

Mr. Prashant Bansal, Advocate
for the respondent.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for setting aside the order dated 20.04.2018 passed by the trial Court in criminal complaint No.COMA/777/2015 titled as Pankaj Grover Vs. Harnek Singh under Section 138 of the Negotiable Instruments Act, vide which cross-examination of the complainant/respondent was treated as Nil, as the petitioner/accused has failed to cross-examine him.

Learned counsel for the petitioner submits that when the case was fixed for cross-examination of the respondent/complainant, the petitioner/accused could not cross-examine him, due to the reason that on the same date, he could not appear and therefore, his counsel could not do

cross-examination. It is also submitted that in the intervening period, there were some talks for compromise and the matter was referred to the Mediation and Conciliation Centre as well. It is further submitted that on 20.04.2018, when the case was fixed for cross-examination of the complainant, an application for exemption from personal appearance of the petitioner was moved due to some unavoidable circumstances and on that account, the trial Court treated cross-examination of the complainant as Nil and fixed the case for defence evidence.

Learned counsel for the petitioner has further submitted that the right to cross-examine the complainant is an important right of an accused in order to put up his defence and prove his innocence. He prays that one last opportunity may be granted to the petitioner/accused to cross-examine the respondent/complainant.

Learned counsel for the respondent has filed the reply and in the reply, it is stated that the petitioner has availed 09 opportunities to cross-examine the complainant w.e.f. 19.09.2016 and he is adopting the delaying tactics by moving the application for exemption or changing his counsel.

After hearing learned counsel for the parties, I find that though on the face of it, it is apparent that the petitioner had availed number of opportunities to cross-examine the witness and having failed to do so, the cross-examination of the complainant was treated as Nil, however, considering the fact that the petitioner being an accused has a right to cross-examine the prosecution witnesses and put up his defence in order to prove his innocence, one effective opportunity is granted to the petitioner to

complete the cross-examination of the complainant, subject to payment of costs of Rs.10,000/- to be paid to the respondent/complainant.

It is made clear that the trial Court will give one effective opportunity to the petitioner/accused to cross-examine the respondent/complainant and in case the petitioner failed to do so, on the pretext of his non-appearance or change of the counsel, the trial Court will proceed further in accordance with law and will not grant any further opportunity.

The parties are directed to appear before the trial Court on 21.08.2018 and the trial Court will fix one effective date for cross-examination of the complainant.

Disposed of, accordingly.

[ARVIND SINGH SANGWAN]
JUDGE

01.08.2018
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Whether speaking/reasoned Yes/No

Whether reportable Yes/No