

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-27885 of 2018
Date of Decision: 06.07.2018

Savitri Devi

...Petitioner

VERSUS

Kuldeep Singh

...Respondent

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Arun Takhi, Advocate
for the petitioner.

SURINDER GUPTA, J.

The petitioner has sought quashing of order dated 23.05.2018 (Annexure P-10) passed by Judicial Magistrate Ist Class, Chandigarh bearing complaint no. 2111/2016 instituted on 11.03.2016 titled “Kuldeep Singh vs. Savitri Devi” whereby application filed by petitioner under Section 243 Cr.P.C. for summoning witnesses in defence was dismissed.

2. Respondent has filed complaint under Section 138 Negotiable Instruments Act against petitioner in which evidence was concluded by complainant and statement of petitioner was recorded on 21.01.2018. Thereafter, the case was fixed for defence evidence and petitioner was directed to file list of witnesses within three days. It was also ordered that in the event of list of witnesses being not filed within three days petitioner will not get assistance from Court for summoning the witnesses. After fixing the case for defence evidence, adjournments were allowed for following dates:-

“08.02.2018, 19.02.2018, 28.02.2018, 08.03.2018, 09.03.2018,
10.04.2018, 24.04.2018, 07.05.2018, 18.05.2018 &
23.05.2018.”

Despite granting adjournments on above referred dates, petitioner-accused did not produce any evidence in defence. On 23.05.2018, she filed application to summon 16 witnesses out of which six are the Nodal Officers of different mobile companies, five are the officials of judicial courts with record, one official/record keeper of a newspaper, one bank official, one official/record keeper from the office of Sub-Registrar, SAS Nagar, Mohali, two officials/record keepers from the office of Commissioner, Income Tax, Panchkula and Chandigarh.

Learned trial Court declined the application on various grounds including the ground that petitioner has not disclosed the relevance of above referred witnesses. Even during arguments, counsel for petitioner-accused could not apprise learned trial Court about relevance of witnesses.

At the very outset, learned counsel for the petitioner was asked to apprise the relevance of witnesses sought to be summoned so that appropriate order may be passed in this regard. He was also offered to take date to have instructions in this regard but he flatly refused to explain the relevance of witnesses sought to be summoned in defence and insisted with argument that his application could not be declined as petitioner being accused has right to summon the witnesses in defence. In support of his contention he has relied on observations of Hon'ble Apex Court in case **T. Nagappa vs. Y.R. Muralidhar, 2008 (2) SCC (Criminal) 677.**

In case of ***T. Nagappa (supra)***, the accused had moved application for referring to cheque in question for examination by Director of Forensic Science Laboratory for determination of age of his signatures. In that case complainant-respondent had raised the plea of misuse of cheque. Observations in above referred case are not helpful to petitioner for the

reason that firstly, accused has no blanket right to summon any witness. For summoning the witness he has to explain to trial Court the relevance of witnesses and had to avail the opportunity at the earliest when the case is fixed for defence evidence. Secondly, the petitioner had availed several opportunities after the case is fixed for defence evidence but did not produce any witness and then moved this application but did not disclose the relevance of witnesses in the application or even at the time of arguments.

Learned counsel for the petitioner when enquired about relevance of witnesses, he has flatly refused to disclose and tried to make out that accused is not duty bound to explain the relevance, rather he has right to summon any witness in defence.

Taking note of the response of learned counsel for the petitioner, I am of the considered opinion that this petition should be rejected on this sole ground that petitioner has failed to explain the relevance of witnesses sought to be summoned by him vide application (Annexure P-10). Order passed by learned trial Court suffers from no legal infirmity in this regard calling for any interference in this petition.

This petition has not merit and the same is dismissed.

July 06, 2018

jk

**(SURINDER GUPTA)
JUDGE**

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No