

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

CRM-M No.29434 of 2018

Date of decision: 17.07.2018

M/s Madhav Exports and another

....Petitioners

Versus

M/s Suraj Garg and sons

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Neeraj Gaur, Advocate
for the petitioners.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this petition is for quashing of the order dated 14.06.2018 passed by the trial Court vide which the application filed by the respondents for calling a witness namely Manav was allowed.

Counsel for the petitioners has submitted that in the original complaint filed under Section 138 of the Negotiable Instruments Act (in short 'the N.I. Act'), 03 persons cited as witness i.e. Suraj Gupta – complainant, a concerned Clerk of Punjab National Bank, Tehsil Camp Panipat Branch and another Clerk of the same bank of Amar Bhawan Chowk, Panipat Branch. Thereafter, the complainant filed an application for summoning another set of 05 witnesses without mentioning their relevancy with reference to the complaint and the said application was allowed by the trial Court vide order dated 04.01.2018 and thereafter, the petitioner had filed CRM-M No.5853 of 2018, challenging the said order passed by the trial Court. The said petition was disposed of and the trial Court was directed to pass afresh order with regard to the witness namely Manav, in the light of the provisions of Section 311 Cr.P.C., after affording an opportunity to the opposite

party vide order date 14.02.2018.

Counsel for the petitioner has further submitted that now the trial Court vide impugned order dated 14.06.2018, has allowed the said application on payment of costs. It is further submitted that the petitioner is challenging the impugned order on the ground that the name of this witness – Manav was not there, in the first list attached with the complaint or even in the second list of witnesses, which was allowed vide order dated 04.01.2018. It is also submitted that this witness may produce some documents, which are never relied upon by the complainant in the complaint filed under Section 138 of the N.I. Act and, therefore, the impugned order is liable to be set-aside.

After hearing the counsel for the petitioner, though, it is admitted fact that this witness i.e. Manav was not named in the first and second list of witnesses, however, considering the fact that the trial Court has allowed the same on the premise that the complainant be given an opportunity to lead his entire evidence, I deem it appropriate to grant liberty to the petitioner/accused to raise all the pleas taken in this petition and put to this witness Manav, during the cross-examination and also put all the relevant objections regarding the admissibility of documents/bills, if any, sought to be produced for the first time, if these were not relied upon by the complainant earlier. The objections so taken will be decided by the trial Court at the time of final disposal of the complaint.

Disposed of.

17.07.2018

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(ARVIND SINGH SANGWAN)

JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No