

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

CRM-M No.31901 of 2018

Date of decision: 27.07.2018

M/s Kaushik Furniture House and another

....Petitioners

Versus

Om Parkash

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Amrainder Singh, Advocate
for the petitioners.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this petition is for setting-aside the order dated 06.07.2018 (Annexure P1) vide which the evidence of the petitioner has been closed by order of the Court in complaint case No.NACT/2899/2015 dated 01.07.2015 filed under Section 138 of the Negotiable Instruments Act.

Counsel for the petitioners has submitted that after the evidence of the complainant was closed, the case was fixed for defence evidence on 05.03.2018 and on that day, an application under Section 315 Cr.P.C. was moved for granting permission to the petitioner/accused to appear as his own defence witness and the same was allowed and the case was fixed for 20.04.2018 and thereafter, on that day, a request was made and the case was adjourned for 11.05.2018 and on 11.05.2018, the petitioner moved an application for exemption, which was granted on payment of costs of Rs.500/- and the case was adjourned for 06.07.2018 and however, on 06.07.2018, the petitioner did not appear and the trial Court has closed the defence evidence noticing the fact that sufficient opportunities have been granted to the

accused to lead the defence evidence.

Counsel for the petitioners has further submitted that the petitioner No.2 may be granted one opportunity to appear as his own witness as he has a right to lead his defence evidence and put up his case before the trial Court.

After hearing the counsel for the petitioner, I find merit in the present petition. Though, a perusal of the last 03 orders passed by the trial Court show that the petitioner despite availing 03 opportunities has not appeared before the trial Court, however, considering the fact that the petitioner has a right to lead his defence evidence, one opportunity is granted to him to appear as his own witness subject to payment of costs of Rs.5,000/- to be paid to the complainant party for delaying the proceedings.

The trial Court is directed to afford one effective opportunity to the petitioner for appearing as his own defence witness. This will however be subject to payment of costs as noticed above.

Disposed of.

(ARVIND SINGH SANGWAN)
JUDGE

27.07.2018

yakub

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No