

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

(1) CRM-M-44000 of 2018.
Decided on:-October 06, 2018.

Raminderpal Singh.Petitioner.

Versus

Anita Goyal.Respondent.

(2) CRM-M-44029 of 2018.

Raminderpal Singh.Petitioner.

Versus

Anita Goyal.Respondent.

(3) CRM-M-44114 of 2018.

Raminderpal Singh.Petitioner.

Versus

Anita Goyal.Respondent.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

Present:- Mr. Ravinder Singh Marahar, Advocate
for the petitioner.

HARI PAL VERMA, J. (Oral)

This order shall dispose of the aforementioned three petitions
filed under Section 482 Cr.PC for quashing of orders dated 08.08.2018 passed
by learned Sub-Divisional Judicial Magistrate, Dhuri in complaint cases

No.Nact/158 dated 07.08.2017, Nact/159 dated 23.05.2017 and Nact/157 dated 23.05.2017 filed by the respondent-complainant under Section 138 of the Negotiable Instruments Act, 1881 (for short, the Act), whereby on account of non-cross-examination of the complainant by the petitioner-accused, the trial Court treated the opportunity as 'Nil'.

However, for convenience and clarity, detailed order is being passed in **CRM-M-44000 of 2018** titled as ***Raminderpal Singh Versus Anita Goyal***.

The respondent-complainant had filed a complaint against the petitioner-accused under Section 138 of the Act, whereby the cheque issued by the petitioner in favour of the complaint was dishonoured on presentation in the bank. On 13.07.2018 when the case was fixed for cross-examination of the complainant, the conducting counsel for the petitioner-accused assured the trial Court that he would conduct cross-examination of the complainant on the next date of hearing without any fail and would not seek any adjournment. Thereafter, the case was adjourned to 08.08.2018 for cross-examination of the complainant. On the next date i.e. 08.08.2018, the trial Court had taken up the case at different times, but as the petitioner-accused could not cross-examine the complainant despite the fact that the complainant remained present in the Court, the trial Court vide impugned order dated 08.08.2018 treated the opportunity of cross-examination of the complainant as 'Nil'.

It is in these circumstances, the petitioner has filed the present petitions.

Learned counsel for the petitioner states that earlier the petitioner had engaged a lawyer, who has to come from Ludhiana and it is because of the non-availability of that counsel, the complainant could not be cross-examined on 13.07.2018 and 08.08.2018. However, now the petitioner has engaged a local lawyer so that the complainant can be cross-examined.

He further states that no doubt, the petitioner had assured the Court that he would conduct cross-examination of the complainant, but because of non-availability of his counsel, he could not do so. Hence, he prays that one more opportunity be granted and the petitioner undertakes that he will cross-examine the complainant on the date fixed before the trial Court.

Having heard learned counsel for the petitioner and perusing the impugned order, it is apparent that on 08.08.2018 when the case was fixed for cross-examination of the complainant and the complainant remained present in the Court, the trial Court had taken up the matter at different intervals. The case was taken up about 13 times in single day which reflects the sincerity and pain in the proceedings conducted by the trial Court.

Though no sufficient ground to grant opportunity to the petitioner is made out, but taking into consideration the fact that on the relevant date, the out-station counsel of the petitioner was not available and it was not the fault of the petitioner, the petitioner is granted one more opportunity to cross-examine the complainant subject to payment of costs of Rs.15,000/- (Rs.5,000/- in each case) to be paid to the complainant.

It is made clear that the payment of costs of Rs.15,000/- shall be paid to the complainant and deposit of costs would be a condition precedent to avail the opportunity to cross-examine the complainant.

These petitions have been disposed of without issuing any notice to the respondent-complainant at this stage as no prejudice would be caused to the complainant and issuance of notice will cause further delay in the proceedings.

Photocopy of this order be placed on the files of other connected case.

October 06, 2018
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No