

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-46800-2017 (O&M)
Date of decision: 07.12.2018

1. CRM-M-46800-2017 (O&M)

Gopal Krishan Seth

... Petitioner

Vs.

Ashoke Sharma

... Respondent

2. CRM-M-46893-2017 (O&M)

Gopal Krishan Seth

... Petitioner

Vs.

Ashoke Sharma

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Saurabh Arora, Advocate
for the petitioner.

Mr. Vaibhav Narang, Advocate
for the respondent.

ARVIND SINGH SANGWAN, J. (ORAL)

This order shall dispose of aforementioned two petitions praying for setting aside the orders dated 15.03.2017 and 19.04.2017 (wrongly typed as 19.04.2016 in the original order) passed by the trial Court and order dated 29.07.2017 passed by the revisional Court, in complaint No.NACT/1167/2016

dated 12.04.2016 and complaint No.NACT/248/22.1.2015, both under Section 138 of the Negotiable Instruments Act titled as Ashoke Sharma Vs. Gopal Krishan Seth, vide which right of the petitioner/accused to cross-examine the complainant, was treated as Nil by the trial Court.

At the very outset, learned counsel for the parties are ad idem that one effective opportunity be granted to the petitioner to complete cross-examination of the complainant subject to the condition that the petitioner/accused will deposit an amount of Rs.1.00 lac each, in both the cases with the trial Court, which shall be kept in the shape of FDR and to be paid to the complainant, in case the complainant succeed in his complaints, as payment towards the cheques amount or in the alternative, on dismissal of the complaint, the same may be returned to the petitioner/accused.

In view of the above, both these petitions are allowed and the impugned orders dated 15.03.2017 and 19.04.2017 passed by the trial Court and the impugned order dated 29.07.2017 passed by the revisional Court are set aside.

The trial Court is directed to afford one effective opportunity to the petitioner/accused to cross-examine the complainant. This will however be subject to the condition that the petitioner will deposit an amount of Rs.1.00 lac each, in both the cases with the trial Court, which shall be kept in the shape of FDR and to be paid to the complainant, in case the complainant succeed in his complaints, as payment towards the cheques amount or in the alternative, on dismissal of the complaint, the same be returned to the petitioner/accused. The deposit of the aforesaid amount will be a pre-condition before affording an

opportunity of hearing.

The parties are directed to appear before the trial Court on or before 21.01.2019 and thereafter, the trial Court will fix one effective date for cross-examination of the complainant, after deposit of the aforesaid amount.

07.12.2018
vishnu

[ARVIND SINGH SANGWAN]
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No