

CRM-M-9292 of 2015 (O&M)

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

CRM-M-9292 of 2015 (O&M)
Date of Decision: 20.09.2018

Sanjeev Dhand

....Petitioner

Versus

Rajeev Dhand

....Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Jagjit Singh Lalli, Advocate,
for the petitioner.

Mr. A.D.S. Jattana, Advocate,
for the respondent.

RAMENDRA JAIN, J. (ORAL)

Through this petition under Section 482 Cr.P.C. prayer has been made for quashing order dated 02.09.2014 (Annexure P-2) of the trial Court, whereby application of the petitioner for recalling complainant for cross-examination, has been rejected.

In nutshell, respondent filed a complainant against the petitioner under Section 138 of the Negotiable Instruments Act (in short the 'Act'), in which, after recording preliminary evidence, petitioner was summoned vide order dated 30.11.2012. On appearance of the petitioner, he was served notice of accusation vide order dated 10.06.2013 to which he pleaded not guilty and claimed trial. Respondent tendered his affidavit for his examination-

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in-chief on 23.09.2013. However, his cross-examination was deferred on request of learned counsel for the petitioner. In the meantime, Hon'ble Supreme Court in case ***Indian Bank Association and others v. Union of India and others***, 2014(2) R.C.R.(Criminal) 598 decided on 21.04.2014 held that summary procedure has to be adopted in case under Section 138 of the Act. Consequently, trial Court directed the petitioner to lead his defence evidence.

However, petitioner instead of leading his evidence in defence, moved application for recalling the complainant for cross-examination pleading that certain relevant questions were necessary to put to him, which, after hearing both the sides, was dismissed vide impugned order dated 02.09.2014 (Annexure P-2).

Learned counsel for the petitioner contends that one opportunity may be granted to the petitioner to bring the true facts on record about the alleged transaction between the petitioner and respondent as to in what circumstances the cheque in question had come into the hands of the respondent.

On the other hand, learned counsel for the respondent vehemently opposed the submissions made by learned counsel for the petitioner.

Having given thoughtful consideration to the submissions made by both the sides and taking into account the dictum laid down by the Hon'ble Supreme Court in the above referred case, this

Court is not inclined to set aside the impugned order being legal

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and valid.

Dismissed.

September 20, 2018
R.S.

(Ramendra Jain)
Judge

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No