

247

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM No. M-5100 of 2017 (O/M)
Date of decision : 21.9.2018

Shri Ganesh Enterprises and another Petitioners

Versus

Kalawati Laboratories Pvt. Ltd. Respondent

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. N.P. Bhardwaj, Advocate,
for petitioners.

Mr. D.K. Singal, Advocate,
for respondent.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

-. -

-. -

KULDIP SINGH J. (ORAL)

The petitioners have challenged order dated 2.1.2017 (Annexure-P-2), passed by learned Judicial Magistrate 1st Class, Panchkula, and order dated 27.1.2017 (Annexure-P-1), passed in revision by learned Additional Sessions Judge-I, Panchkula, vide which request of petitioners for recalling complainant for further cross examination was declined.

I have heard learned counsel for parties and have also carefully gone through the file.

A complaint under Section 138 read with Sections 141 and 142 of Negotiable Instruments Act, 1881, was filed by complainant-respondent before trial Court, in which after completion of evidence, statement of accused under Section 313 Cr.P.C. was recorded on 12.9.2016. Thereafter, on 7.11.2016, an application under Section 311 Cr.P.C. was filed by accused-petitioners for recalling CW1 for further cross examination on the

CRM No. M-5100 of 2017 (O/M)

ground that accused-petitioners had changed the counsel and previous counsel had not put material questions to complainant, nor put any documents. Both the Courts below have taken the view that complainant is not to be recalled.

I am of the view that accused-petitioners had engaged a counsel, who put all necessary questions to complainant. If the new counsel is engaged and he feels that more questions are to be put to witness, that would mean that on every change of counsel, some more questions are to be put to witness. If this application is allowed, this will result in delaying the trial unnecessary. Once due opportunity was given at the appropriate stage, no further opportunity is to be given. Therefore, there is no illegality or perversity in the findings recorded by two Courts below. Therefore, petition is dismissed.

It is contended that Rs. 5,00,000/- were deposited by accused-petitioners before trial Court, in pursuance of order, passed by this Court on 8.3.2017, which have been ordered to be released to complainant on furnishing surety. It is directed that if complaint is dismissed, complainant will return Rs. 5,00,000/- to petitioners.

(KULDIP SINGH)
JUDGE

21.9.2018
sjks

Whether speaking / reasoned : Yes / No

Whether Reportable : Yes / No