

129 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-53381-2018
Date of decision-03.12.2018

Kulu Phokela

...Petitioner

Vs.

Inderjit Singh Marwaha

...Respondent

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

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

MANOJ BAJAJ, J.

The present petition has been filed under Section 482 of Code of Criminal Procedure for quashing of the impugned order dated 17.11.2018 (Annexure P-1) passed by Additional Sessions Judge, Chandigarh, whereby it has affirmed order dated 24.08.2018 (Annexure P-3) passed by Judicial Magistrate First Class, Chandigarh declining the application for personal exemption from appearance in complaint No.1897 of 2017, dated 17.03.2017 registered under Section 138 of Negotiable Instruments Act, 1881.

Learned counsel contends that the petitioner being an aged lady is mainly occupied in attending her ailing husband and it is cumbersome to travel from Bangalore to Chandigarh on each and every date of hearing. It is argued that prayer is justified.

I have heard learned counsel and gone through the contents of the application (Annexure P-4). Though application has not described the

exact provisions under which it was filed, however, the pleadings in the application do satisfy the requirements laid down under Section 317 Cr.P.C.

The trial Court has dismissed the application without assigning any valid reasons, much less considering the sufficient explanation offered by the petitioner. The revisional Court has also not considered the advanced age of the petitioner and other attending circumstances compelling her to seek permanent exemption, while dismissing the revision petition. The complaint pertains to the summary trial and no prejudice would be caused to the complainant in case exemption is granted to the petitioner as prayed by her subject to the conditions of Section 317 Cr.P.C. Resultantly, petitioner is granted exemption from personal appearance before the Court, subject to her filing the undertaking by way of an affidavit in terms of conditions as contemplated under Section 317 Cr.P.C.

Disposed off.

(MANOJ BAJAJ)
JUDGE

03.12.2018

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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No