

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

CRR-365-2019

Date of Decision:-11.02.2019

Mukesh

... Petitioner

Versus

Kali Ram

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Ashwani Gaur, Advocate
for the petitioner.

GURVINDER SINGH GILL, J. (Oral)

1. By way of filing this revision petition, the petitioner assails order dated 20.12.2018 vide which his application under Section 391 Cr.P.C. seeking permission to adduce additional evidence has been dismissed.
2. The petitioner was tried for an offence punishable under Section 138 Negotiable Instruments Act, 1881 pertaining to a dishonour of cheque for an amount of ₹80 lakhs. The trial Court having found the petitioner

guilty, convicted him vide judgment dated 15.03.2017, which the petitioner challenged by way of filing an appeal in the Court of Additional Sessions Judge, Gurugram which is pending. It was during the pendency of the said appeal that the petitioner moved an application under Section 391 Cr.P.C. seeking permission to lead additional evidence in the shape of a bank statement showing that the petitioner had made a payment of ₹11,50,000/- to the respondent-complainant in the month of March, 2011. However, the said application was dismissed vide impugned order dated 20.12.2018 holding therein that the petitioner had already availed sufficient opportunities to lead defence evidence and that in these circumstances no ground is made out to permit additional evidence.

3. Having heard learned counsel for the petitioner and having perused the impugned order, I find that it indeed is a case where the petitioner had availed sufficient opportunities to adduce defence evidence but he did not choose to produce aforesaid evidence regarding the bank statement. An amount of ₹11,50,000/- is a substantial amount and it remains unexplained as to why the petitioner did not produce the said evidence when the matter was fixed for defence evidence. In any case, the mere fact that some payment for an altogether different amount which is much lesser than the cheque amount had been made by the petitioner to respondent *ipso-facto* would not demolish a case under Section 138 Negotiable Instruments Act, 1881. The petitioner not having remained diligent and not having explained as to why aforesaid evidence was not

led at the appropriate stage, this Court does not find any infirmity in the impugned order and the same is hereby upheld.

4. The criminal revision petition, as such, is sans merit and is hereby dismissed.

11.02.2019
Gaurav Sorot

(GURVINDER SINGH GILL)
JUDGE

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No