

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.M-10347 of 2015

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Date of decision:11.02.2019

M/s Shree Shyam Traders

.....Petitioner

v.

Mohinder Singh

.....Respondent

....

Present: Mr. K.S. Chawla, Advocate for the petitioner.

Mr. Amit Kumar Saini, Advocate for the respondent.

.....

Inderjit Singh, J.

This petition has been filed under Section 482 Cr.P.C. praying for quashing and setting aside of the impugned order dated 19.1.2015 (Annexure-P.18) passed by learned Judicial Magistrate Ist Class, Samrala, District Ludhiana in complainant No.115/2 dated 17.9.2008 (Annexure-P.3) filed under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter referred to as 'the NI Act') titled "Shree Shyam Traders, Machhiwara Vs. Mohinder Singh", whereby the petitioner has been directed to produce for comparison from Expert, the entries dated 5.12.2006 and 20.12.2006 along with the record as ordered vide earlier order dated 30.5.2012 (Annexure-P.13) of the predecessor trial Court.

Notice of motion was issued in this case.

Mr. Amit Kumar Saini, learned Advocate has appeared on behalf of the respondent and contested this petition.

I have heard learned counsel for the petitioner as well as

learned counsel for the respondent and have gone through the record.

From the record, I find that vide impugned order dated 30.5.2012, the learned Judicial Magistrate Ist Class, Samrala, allowed the application of the accused directing the complainant to produce the original accounts books of his concern M/s Shree Shyam Traders, Machhiwara for the purpose of comparison from Handwriting and Fingerprints Expert. Reply was filed by the complainant to the application. It was argued by the learned counsel for the complainant that the application is vague because neither it has been mentioned in the application that the record regarding which particular entry is required to be produced and further that it has not been mentioned in the application that for what purpose the said record of entries is required by the accused/applicant.

On the other hand, learned counsel for the applicant argued before the learned trial Court that cross-examination of CW-3 Ramneek Kumar-complainant shows that the suggestion has been put to him to the effect that the entries dated 27.11.2006, 29.11.2006, 20.12.2006 and 5.1.2007 do not bear the signatures of Mohinder Singh-applicant/accused. As per the counsel, it is record pertaining to above said entries which has been sought to be produced.

The learned trial Court has allowed this application. A revision petition has been filed against this order and the learned Additional Sessions Judge, Ludhiana, vide order dated 30.3.2013 gave the liberty to move an appropriate application if he wants to prove the entries dated 5.12.2006 and 20.12.2006 where alleged additions and alterations have been effected by the complainant as argued. Another application was filed by

accused Mohinder Singh for directing the complainant to produce the

original account books qua the entire entries on record pertaining to the accused/applicant for starting of the dealing for the purposes of comparison. Vide order dated 19.1.2015 passed by the learned Judicial Magistrate Ist Class, Samrala, this application was allowed with a direction to the complainant to produce the entries dated 5.12.2006 and 20.12.2006 along with the record as ordered vide order dated 30.5.2012. Aggrieved from this order this petition has been filed.

After going through the record, I find that it is settled law that the Court should do substantial justice between the parties and should not go into the technicalities of law. In the present case, the defence of the accused is that the entries qua him are forged one and he wants to get the same compared from the Handwriting and Fingerprints Expert. It is settled law that application under Section 311 Cr.P.C can be filed at any stage of the trial. In view of the dispute between the parties and to determine the liability of the accused, if any, and to support the defence of the accused, this evidence regarding production of the entries relating to the accused and then to get these entries compared, is necessary to determine the dispute between the parties substantially. By allowing both these applications, the learned trial Court has not committed any illegality. Nothing has been pointed out as to how these findings are illegal. The accused can prove the entries as forged etc. by getting these compared from the Handwriting and Fingerprints Expert.

Therefore, from the above, I find that the orders passed by the learned trial Court are correct and do not require any interference from this

Court.

[4]

Therefore, finding no merit in this petition, the same is dismissed.

February 11, 2019.

(Inderjit Singh)
Judge

hsp

NOTE:	Whether speaking/reasoned:	Yes
	Whether reportable:	No