

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

CRM No.M-13231 of 2017 (O&M)

Date of Decision: May 24, 2019

Minoti Dhawan

...Petitioner

VERSUS

Shoraya Talwar

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Abhinav Gupta, Advocate
for the petitioner.

Mr.Mandeep S. Sachdev, Advocate
for the respondent.

INDERJIT SINGH, J.

Petitioner Minoti Dhawan has filed this petition under Section 482 Cr.P.C. against respondent Shoraya Talwar, for quashing of order dated 22.03.2017 passed by learned JMIC, Jalandhar, whereby, the application filed by the respondent under Section 145(2) of the Negotiable Instruments Act read with Section 311 Cr.P.C. was allowed.

Notice of motion was issued. Learned counsel for the respondent appeared and contested the petition.

I have heard learned counsel for the parties and have gone through the record.

The perusal of the record shows that an application was moved by complainant-respondent under Section 145(2) of the Negotiable

Instruments Act read with Section 311 Cr.P.C. It is stated therein that

earlier application moved by the complainant was disposed with the direction that adverse inference would be taken against the accused if she failed to produce the documents sought by complainant. In the revision petition filed by the accused, aforementioned order of the trial Court was set aside. In the application in question, a request has been made for summoning record from the bank as mentioned in the application to prove that being a proprietor of firm, accused No.2 is liable for cheque in question. The accused in the reply stated that application is not maintainable, which is filed at belated stage. Earlier application under Section 311 Cr.P.C. was allowed by the Court but at that time, no such evidence was led and present application has been filed to fill up the lacuna, which is not permissible as per law.

Learned trial Court held that earlier application was moved by the complainant, wherein, the complainant mentioned in para No.3 that complainant intends to examine concerned Clerk from the Citizen Urban Cooperative Bank along with the record pertaining to the cheque in question and further complainant wants to examine Varinder Talwar as a witness. The Court, after perusing earlier order, held that application was allowed qua examining CW-2 Varinder Talwar but there is no order regarding dismissal or denial of testimony of the witness from the Citizen Urban Cooperative Bank. Therefore, learned trial Court, accepted this application.

The perusal of the record shows that evidence, which the complainant wants to produce under Section 311 Cr.P.C. is relevant and necessary for the just decision of the case. It is settled law that the Court should not go into the technicalities of law and should do substantial justice

between the parties. The application under Section 311 Cr.P.C. can be filed

at any stage. Though, the complainant has earlier filed the application for summoning the witnesses but the Court has made no reference regarding this witness in question. Examination of this witness has not been denied in that order.

Keeping in view the facts and circumstances of the present case, I find that no prejudice is going to be caused to the present petitioner as she will get the opportunity to cross-examine the witness. Furthermore, as already discussed, the evidence which the complainant wants to produce is necessary for the just decision of the case.

In view of the above discussion, I find that no illegality has been committed by learned trial Court while passing impugned order dated 22.03.2017.

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

May 24, 2019
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No