

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

CRM-M-10527-2019 (O&M)

Date of decision-28.11.2019

Madhu Diwan

...Petitioner

Vs.

Kuljinder Singh

...Respondent

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Anuj Dewan, Advocate for the petitioner.

Mr. Arjunveer Sharma, Advocate for the respondent.

MANOJ BAJAJ, J. (Oral)

This petition has been filed under Section 482 Cr.P.C for quashing the order dated 18.02.2019 passed by the learned Judicial Magistrate First Class, Ludhiana whereby the evidence of the petitioner-accused was closed and alongwith it the order dated 26.02.2019 (Anenxure P-8) has been challenged, whereby application filed by the petitioner (accused) under Section 311 Cr.P.C. for summoning witness, was dismissed.

The petitioner-accused is facing prosecution in a complaint filed by respondent against her for the offence punishable under Section 138 Negotiable Instruments Act, 1881. It has been contended by learned counsel for the petitioner that the petitioner was summoned and the matter was fixed for complainant's evidence on 28.08.2017. However, an adjournment was sought by the counsel for the respondent/complainant and the matter was adjourned to 31.10.2017. Thereafter also, the respondent/complainant took

adjournments on four occasions. After completion of the respondent/complainant's evidence on 21.08.2018, the statement of petitioner/accused was also recorded under Section 313 Cr.P.C on 31.08.2018. On the very same day, the petitioner filed an application under Section 315 Cr.P.C to examine herself, and on 17.01.2019, the evidence of the petitioner as DW-1 was completed, however, no other DW was produced. The trial Court while accepting prayer for adjournment by the petitioner directed her to produce entire remaining defence witness on next date. The trial Court had granted last and final opportunity to her with costs of Rs. 500/-. On 18.02.2019, again the petitioner prayed for an adjournment, however, the trial Court declined the prayer and the evidence of the petitioner-accused was closed.

Learned counsel for the petitioner contends that the trial Court has committed an error in not granting the petitioner opportunity to produce witnesses in her defence. Various adjournments were granted to the respondent-complainant on number of occasions whereas the petitioner-accused has been denied the opportunity to lead her evidence. It has been further contended that the evidence of the witnesses is necessary for the just decision of the case and no prejudice would be caused if opportunity is granted to the petitioner to examine her witnesses.

On the other hand, learned counsel for the respondent has vehemently opposed the prayer of the petitioner. He submits that sufficient opportunities were granted to the petitioner to lead her evidence, however, she failed to avail the same.

After hearing learned counsel for the parties, this Court is of the opinion that if one more opportunity is granted to the petitioner-accused to lead her evidence, the same would not prejudice the rights of the respondent-complainant in any manner and he shall also have an opportunity to cross-examine the said witness.

Considering the above, the petition is accepted and the impugned orders dated 18.02.2019 and 26.02.2019 are set aside. It is directed that the trial Court shall afford one more effective opportunity to the petitioner to conclude the evidence by fixing specific date.

Disposed off.

The miscellaneous application, if any, shall be deemed to be disposed off as infructuous.

(MANOJ BAJAJ)
JUDGE

28.11.2019
vanita

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