

CRM-M-20743 of 2018

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

CRM-M-20743 of 2018
Date of Decision: 05.02.2019

Pawan Bhatia

...Petitioner

Versus

M/s Cargo Motors Punjab Pvt. Ltd.

....Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present:- Mr. Ankur Bansal, Advocate, for the petitioner.
Mr. D.K. Bhatti, Advocate, for
Mr. Piyush Gill, Advocate, for the respondent.

RAMENDRA JAIN, J. (ORAL)

Through this petition under Section 482 Cr.P.C. challenge has been laid to order dated 24.04.2018 (Annexure P-1), whereby trial Court has accepted application of the respondent-complainant under Section 311 Cr.P.C. for examination of three witnesses i.e. from the Provident Fund Department, ICICI Bank and Manager of its own Human Resources Department.

In nutshell, during trial in a complaint under Section 138 of the Negotiable Instruments Act filed by the respondent-complainant against the petitioner, petitioner put certain questions to CW1 I.D. Sharma suggesting that petitioner was never remained under employment of the complainant company and as such question of his appointment as Branch Manager does not arise at all. Since the petitioner by putting such questions in cross-examination to the witnesses of respondent-complainant tried to belie the

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stand of the respondent-complainant that petitioner cheated the complainant during his employment, therefore, respondent-complainant moved application under Section 311 Cr.P.C. for allowing it to examine aforesaid witnesses, which, after hearing both the sides, stands allowed by the trial Court.

Learned counsel for the petitioner *inter alia* contends that respondent-complainant in its complaint has very much pleaded about the alleged employment of the petitioner with it. Therefore, it was necessarily required for it to lead relevant evidence in support of its above assertion, which it did not, despite availing numerous opportunities. Consequently, evidence of the respondent was closed by Court order. Thereafter, application moved by the respondent-complainant under Section 311 Cr.P.C., which has been allowed, could not have been entertained by the trial Court, being not maintainable because order Annexure P-5, closing evidence of the respondent-complainant by Court order was never challenged.

On the other hand, learned counsel for respondent-complainant, refuting above submissions, pleaded the legality and validity of the impugned order.

Having given thoughtful consideration to the rival submissions, this Court finds the instant petition completely devoid of any merit for the reasons to follow.

Learned counsel for the petitioner has not been able to show as to what prejudice is going to be caused to the petitioner by acceptance of application of the respondent under Section 311 Cr.P.C., except delay in

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proceedings before the trial Court.

Procedure in Courts is always manmade even otherwise specifically provided. According to the circumstances during trial, any procedure can be adopted by the Court to impart justice to the parties. In the instant case, petitioner put certain questions to CW1 I.D. Sharma authorised representative of the respondent-complainant that petitioner never remained in employment of the respondent-complainant as Manager or in any capacity. Therefore, it had become necessary for the respondent-complainant to prove certain documents from the Provident Fund Department and the bank to show that petitioner was drawing salary which was being transferred directly to his bank account and that his provident fund was also deducted during his employment with the respondent-complainant. Adducing such evidence by respondent-complainant would definitely help the trial Court in effective adjudication of the case.

I have gone through the impugned order and find no illegality or perversity in the same.

Parties are directed to appear before the trial Court on 06.02.2019 i.e. the date already fixed.

Dismissed.

February 05, 2019
R.S.

(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No