

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-2327 of 2018 (O&M)
Date of decision: 27.05.2019

M/s Baldev Raj Sham Dass

..... Petitioner

Versus

Manjit Kaur

..... Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Gagandeep Singh Sirphikhi, Advocate for the petitioner.

Mr. D.S. Kahlon, Advocate for the respondent.

ANIL KSHETARPAL, J. (ORAL)

Prayer in this petition is to set aside the order dated 05.12.2017 passed by the Judicial Magistrate Ist Class, Batala dismissing the application under Section 311 of the Code of Criminal Procedure for summoning of record of clerk of the office of Deputy Commissioner, Gurdaspur issuing money lender's licence on 30.09.2016 to the complainant. Learned Court has dismissed the application on the ground that since the cheque in question was issued in the year 2012 and the licence has been issued only on 2016, therefore, it would not be relevant to decide the controversy involved in this case.

This Court has heard learned counsel for the parties at length and with their able assistance gone through the documents filed in the paper book.

Section 311 of the Code of Criminal Procedure empowers the Court to allow at any stage of the inquiry, trial or other proceedings, summon any person as a witness, or examine any person in attendance, though not summoned as a witness, or recall and re-examine any person already examined. In common parlance, such power is called power to lead additional

evidence. The trial admittedly is pending. It is a different thing that whether the additional evidence sought to be produced would be relevant or not. Although, learned counsel for the petitioner while referring to Sub-section (b) (iv) of Section 3 of the Punjab Registration of Money Lender's Act, 1938 has submitted that bar to the recovery of the suit was come to an end even if the licence is issued during the pendency of the suit, however, it would not be appropriate for this Court to record any finding.

On the other hand, learned counsel for the respondent has supported the order passed by the trial Court by contending that the money lenders licence would not validate the lending of money prior to the issuance of licence.

After considering the arguments of learned counsel for the parties, this Court is of the view that learned trial Court committed an error in refusing to admit additional evidence. Admittedly, trial is pending and the effect of money lender's licence issued during the pendency of the proceedings is yet to be examined. At the threshold, the Court should not have dismissed the application without permitting the petitioner to produce in evidence the licence which has been issued in 2016.

Keeping in view the aforesaid facts, the order under challenge is set aside. The petitioner shall be permitted to lead additional evidence as prayed for.

With these observations, the petition is allowed.

Parties through their counsel are directed to appear before the trial Court on 14.06.2019.

27.05.2019

Dinesh Bansal

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes / No
Yes / No