

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc.-M-28448 of 2017
Date of Decision: September 25, 2019.

Narinder Kumar and anotherPetitioners

versus

Rajinder SinghRespondent

CORAM: HON'BLE MR.JUSTICE ANIL KSHETARPAL.

Present: Mr.Gursimran Singh Madaan, Advocate, for the petitioners.

Mr.Y.S.Dhaliwal, Advocate, for the respondent.

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Anil Kshetarpal, J. (Oral)

Challenge is to the order dated 05.06.2017. The facts, as unfolded, are that four complaints against the petitioner-convicts under Section 138 of the Negotiable Instruments Act were filed by the same complainant, i.e., respondent herein or through his attorney. Three complaints have been dismissed by the Court of competent jurisdiction after trial on merits. In one case, the petitioners were convicted. During the pendency of appeal against the conviction, the petitioners filed an application under Section 391 Cr.P.C., for permission to lead further evidence in the facts and circumstances of the present case. In additional evidence/further evidence, the petitioners wanted to examine Bank Manager of the Branch of the Bank where the petitioners maintain bank account, to prove that the signatures of the petitioners are not genuine. It may be noted here that in other three complaints, the Bank Manager had opined that signatures of the petitioners are not genuine on the aforesaid cheques. On the basis of aforesaid opinion, the Courts have acquitted the petitioners in

three complaints. The petitioners also prayed that they may be permitted to file copies of the judgments passed in those three complaints which were delivered of course with regard to different cheques but between the same parties.

Learned Court has dismissed the application by taking a narrow view of the matter. The Court held that since finger print and hand-writing expert has already been examined, therefore, examination of Bank Manager is not necessary. The Court further held that copies of the judgments would not be necessary for the decision of the case.

This Court has heard learned counsel for the parties at length and gone through the documents filed. The factual correctness of the submissions made by learned counsel for the petitioners are not disputed.

Section 391 Cr.P.C. enables the Appellate Court to take further evidence or direct it to be taken in order to do substantive justice between the parties. The Courts have been constituted to dispense justice and not to scuttled it. Here is the case where accused-convicts wants to produce certain additional evidence which would be very relevant for the decision of the case. Copy of the judgments, which have been passed in the criminal complaints filed by the respondent-complainant, would be relevant and help the Court in adjudicating the case in a justiciable manner. Still further, examination of Bank Manager would also help the Court in coming to the conclusion as to whether the signatures of the petitioners-appellants are genuine or fake. In fact, in three complaints, evidence of the Bank Manager helped the Court in delivering justice.

Hence, the order under challenge is set-aside. The application under Section 391 Cr.P.C. is allowed and the petitioners (appellants before

the Appellate Court) would be permitted to lead their additional evidence.

The petition stands disposed of.

September 25, 2019

mohinder

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned

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Yes/No

Whether Reportable

:

Yes/No