

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-16773-2019
DECIDED ON: 11.04.2019

NIRBHAY KUMAR

...PETITIONER..

VERSUS

GULSHAN KUMAR

...RESPONDENT..

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. SKS Bedi, Advocate,
for the petitioner.

RAMENDRA JAIN, J. (ORAL)

Prayer in this petition under Section 482 Cr.P.C., has been made for setting aside order dated 05.11.2018 (P-1) and subsequent order dated 01.03.2019 (P-2) and allowing the petitioner to cross-examine the witness of the complainant with a direction to trial court to decide application dated 20.04.2017 before the cross-examination of the complainant.

Briefly, respondent-complainant filed a complaint against the petitioner under Section 138 of the Negotiable Instruments Act, 1981 (for short, "Act"), in which, the petitioner was summoned and notice of accusation was served, to which, petitioner did not plead guilty. The petitioner, thereafter, moved an application for permitting him to cross-examine the respondent-complainant, which, even after contest, was

allowed by the trial court vide order dated 17.08.2018, permitting the petitioner to cross-examine the complainant on the next date of hearing i.e. 04.10.2018. On the said date, the petitioner or his counsel did not opt to cross-examine the complainant. Therefore, the trial court, to facilitate and accommodate the petitioner, further adjourned the case, subject to cost of ₹1000/-. The petitioner, however, on the adjourned date, neither deposited the cost nor availed the opportunity of cross-examination of the complainant-respondent for the reasons best known to him. Therefore, finding no other option, the trial court, treating the cross-examination of the complainant on behalf of the petitioner, as NIL proceeded with the case further.

Learned counsel contends that in a summary case, petitioner was not legally entitled for the cross-examination of the respondent-complainant, but since his application for cross-examination of the complainant-respondent was allowed, therefore, on adjourned date, in case, the petitioner could not cross-examine respondent, the court must have granted another opportunity.

Having heard learned counsel for the petitioner, though there is no merit in the instant petition, however, in the interest of justice, trial court is directed to afford only single opportunity to the petitioner to cross-examine the respondent-complainant, subject to further costs of ₹2,000/-, besides the cost imposed by the trial court to be deposited with Punjab Legal Services Authority.

It is clarified that in case, the petitioner would not cross-

examine the respondent-complainant on the first date of hearing for cross-examination of the respondent-complainant, whatsoever, given by the trial court, the cross-examination of the petitioner shall be treated as NIL.

With the direction aforesaid, the petition stands disposed of

Copy of this order be given to learned counsel for the petitioner under the signatures of Bench Secretary of this Court.

11.04.2019

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(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No