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

**CRM-M-23546-2019 [O&M]**

**Date of Decision : May 23, 2019**

M/s Fortune Graphics Ltd and others

.... Petitioners

Versus

M/s Vasundhra Enterprises

.... Respondents

**CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN.**

Argued by Mr. Mansur Ali, Advocate,  
for the petitioners.

**SHEKHER DHAWAN, J.**

Present petition under Section 482 of the Code of Criminal Procedure is for quashing order dated 10.05.2019 (Annexure P/6), passed by learned Judicial Magistrate Ist Class, Yamuna Nagar in Complaint case No. NIA-1784/7.10.2016 (Annexure P/1) under Section 138/142 of the Negotiable Instruments Act, 1881 (for short, "**the Act**") whereby application for additional evidence, Annexure P/5, was dismissed.

2. Learned counsel for the petitioners mainly contended that the order dated 10.05.2019 (Annexure P/6), passed by learned Judicial Magistrate Ist Class, Yamuna Nagar is not a reasoned order as the petitioners wanted to examine two witnesses regarding transactions between the accused and the complainant. However, said prayer of the petitioners has been declined ignoring the fact that the same were relevant

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for the proper adjudication of the case and in the absence thereof, the petitioners would be without any cogent defence.

3. Having considered the submissions made by learned counsel for the parties and appraisal of record of this case file, this Court is of the considered view that the petitioner is primarily aggrieved by the order dated 10.05.2019 (Annexure P/6), passed by learned Judicial Magistrate 1st Class, Yamuna Nagar, which can be challenged before the Court of Sessions as per provisions of Section 397 Cr.P.C. For facility of reference, Section 397 Cr.P.C., is extracted below:-

**“397. Calling for records to exercise powers of revision. (1)** The High Court or any Sessions Judge may call for and examine the record of any proceeding before any inferior Criminal Court situate within its or his local jurisdiction for the purpose of satisfying itself or himself as to the correctness, legality or propriety of any finding, sentence or order,- recorded or passed, and as to the regularity of any proceedings of such inferior Court, and may, when calling for such record, direct that the execution of any sentence or order be suspended, and if the accused is in confinement, that he be released on bail or on his own bond pending the examination of the record.

*Explanation.-* All Magistrates whether Executive or Judicial, and whether exercising original or appellate jurisdiction, shall be deemed to be inferior to the Sessions Judge for the purposes of this sub-section and of section 398.

**(2)** The powers of revision conferred by sub- section (1) shall not be exercised in relation to any interlocutory order passed in any appeal, inquiry, trial or other proceeding.

**(3)** If an application under this section has been made by any person either to the High Court or to the Sessions Judge, no further application by the same person shall be entertained by the other of them.”

4. The above quoted provisions give power to move before the Court of Sessions as well for challenging the orders by way of revision.

5. Section 482 Cr.P.C. deals with inherent powers of this Court. It is well-established principle of law that inherent powers conferred on this Court under Section 482 Cr.P.C. has to be exercised sparingly with circumspection and in rare cases and that too, to correct patent illegalities

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of when some miscarriage of justice is done. The content and scope of power under Section 482 Cr. P.C. were examined in considerable details by Hon`ble Apex Court in **Madhu Limaye v. State of Maharashtra, 1978 AIR (SC)**

**47**, and it was held as under:

“The following principles may be stated in relation to the exercise of the inherent power of the High Court:-

(1) **that the power is not to be restored if there is a specific provision in the Code for the redress of the grievance of the aggrieved party;**

(2) that it should be exercised very sparingly to prevent abuse of process of any court or otherwise to secure the ends of justice;

(3) that it should not be exercised as against the express bar of law engrafted in any other provision of the Code.”

6. The main prayer of the petitioners in the present petition is to quash the impugned order dated 10.05.2019 (Annexure P/6), passed by learned Judicial Magistrate Ist Class by invoking powers under Section 482 Cr.P.C. Apparently, the petitioner has an alternative remedy of filing revision against the said orders before the Court of Sessions.

7. In view the above, the present petition under Section 482 Cr.P.C. is not maintainable and is dismissed as such. However, the petitioners shall be at liberty to avail alternative remedy as available under the law.

**(SHEKHER DHAWAN)**  
**JUDGE**

**May 23, 2019**

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| Whether speaking/reasoned? | : | Yes |
| Whether reportable?        | : | Yes |