

126 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-26089-2019 (O&M)
Date of decision:01.07.2019

M/s Sebro Machine Tools Private Limited and others ...Petitioners

Versus

M/s Jyoti Industrial Corporation ...Respondent

CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Mr. T.P.S. Kang, Advocate
for the petitioners.

RAJBIR SEHRAWAT, J. (ORAL)

Prayer in the present petition is for quashing of the order dated 18.05.2019 (Annexure P-1) passed by learned JMIC, Faridabad in complaint under Section 138 of the Negotiable Instruments Act, 1881, i.e. in NACT/1230/2017 dated 22.03.2017 titled as “M/s Jyoti Industries Corporation Ltd. Vs. M/s Sebro Machine Tools Pvt. Ltd.”, whereby the application of the petitioners for keeping the proceedings of the trial in abeyance has been dismissed and the defence evidence of the petitioners has been ordered to be closed.

Learned counsel for the petitioners has submitted at the very outset that he does not wish to press the present petition qua challenge to the order dated 18.05.2019 to the extent the application filed by the petitioners for keeping the proceedings of the trial in abeyance has been dismissed. However, he has instructions to pursue the present petition qua challenge to that part of the order whereby the defence evidence of the petitioners has been ordered to be closed.

In view of the order intended to be passed in this case, this Court does not consider it necessary to issue notice to the respondent at this stage.

Since the learned counsel for the petitioners himself has restricted

the present petition only qua challenge to that part of the order dated 18.05.2019 whereby the defence evidence of the petitioners was ordered to be closed, therefore, the present petition is entertained only qua that portion of the order.

Learned counsel for the petitioners has submitted that the petitioners intended to present their defence in a proper manner by placing on record the documents, which already form part of the record of another trial, which is going on against the complainant of the present case. However, by mistake the appropriate application was not filed for that purpose. Although the petitioners had sought a date for producing the defence witnesses, but at the first instance, they could not examine their witnesses. Thereafter, there was an effort for amicable settlement of the dispute between the parties. Hence, for several dates, the case was adjourned on joint request of the counsel for both the parties. To support his contention, learned counsel for the petitioners has also produced the zimni orders passed by the trial Court. Hence, it is submitted that the part of the impugned order, whereby the defence of the petitioners has been closed, is not based on correct facts. The petitioners have no intention to delay the trial. Still further, it is submitted that in any case, the petitioners deserve at least one opportunity to produce their evidence in defence.

Having hearing learned counsel for the petitioners, this Court finds that even before the trial Court started adjourning the case on joint request, the opportunity was granted to the petitioners to lead their evidence in defence. The order dated 08th January, 2019 would show that even the last opportunity was granted to the petitioners to produce their evidence in defence. Therefore, this Court does not find any illegality or perversity with the order on the face of it, warranting any interference with the same, so far as the merits of the case are concerned.

However, since the petitioners are accused of an offence for which they can suffer even imprisonment, therefore, lest the petitioners should have any grievance, though mistaken, that they have not been granted fair opportunity to defence themselves against the charge, it would not be unjustified to grant them one more opportunity to lead their evidence in defence, though by putting them to some financial burden.

In view of the above, the present petition is disposed of with a direction to the trial Court to provide one effective opportunity to the petitioners to lead their defence evidence, however, subject to payment of Rs.25,000/- as costs. The amount of costs is ordered to be deposited with the Institute for Blind, Sector-26, Chandigarh, within a period of two weeks from today.

It is further clarified that the trial Court shall grant the opportunity to the petitioners to lead their defence evidence only after they produce the receipt of having deposited the costs as mentioned hereinabove.

Disposed of.

(RAJBIR SEHRAWAT)
JUDGE

01.07.2019

Hemlata

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No