

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

CRM No.M-31178 of 2019 (O&M)

Date of Decision: July 23, 2019

M/s Bhag Mal Nagin Chand and others

...Petitioners

VERSUS

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mrs.Himani Kapila, Advocate
for the petitioners.

INDERJIT SINGH, J.

Petitioners have filed this petition under Section 482 Cr.P.C. against the respondents for quashing of orders dated 13.09.2018 and 01.11.2018 passed by learned Judicial Magistrate Ist Class, Ferozepur, in complaint case bearing No.NACT/379/2017 dated 05.06.2017 titled as 'M/s Sharma Enterprises vs. M/s Bhag Mal Nagin Chand' under Section 138 read with Sections 141 and 142 of Negotiable Instruments Act and Section 420/34 IPC, whereby the application under Section 311 Cr.P.C. was dismissed and order dated 02.07.2019 passed by learned Addl. Sessions Judge, Ferozepur, whereby revision petition filed by the petitioners was also dismissed.

I have heard learned counsel for the petitioners and have gone through the record.

The perusal of the record shows that an application under

Section 311 Cr.P.C. was filed by the accused for recalling CW-1 Pardeep Kumar Sharma with further request to direct the complainant-firm to produce the account books maintained by the complainant from 01.01.2015 to 28.02.2017. Learned Magistrate dismissed the above-said application.

The perusal of the record shows that notice of accusation was served on 12.09.2017. The complainant stepped into witness box on 18.12.2017 and his cross-examination was deferred and then lengthy cross-examination was completed on 08.01.2018. The statement of the accused was recorded on 26.02.2018. Thereafter, one defence witness was examined on 09.05.2018. Learned counsel for the accused closed the defence evidence and after that, this application was filed.

First of all, I find that the record was never summoned from the complainant by the accused, at the time, when the complainant was producing evidence. At the time of cross-examination of the complainant also, the record was not summoned. Even in the defence evidence, the accused could have summoned the record by summoning witness of the complainant-firm but that was also not done and the defence evidence was closed. Therefore, no ground is made out to summon this record at the stage of arguments. This Court is aware that application under Section 311 Cr.P.C. can be filed at any stage but the fact of this case shows that finding given by the trial Court that this application was filed just to delay the proceedings looks correct. Furthermore, for recalling the witness for cross-examination, nothing has been mentioned as to which material question is to be asked to the witness.

Learned counsel for the complainant before the trial Court has

argued that application was filed after taking 8-10 opportunities only to

delay the trial. Therefore, the impugned order dated 13.09.2018 passed by learned JMIC, Ferozepur, is correct and as per law.

As regarding second order dated 01.11.2018 passed by learned JMIC, Ferozepur for producing the accused as witness under Section 315 Cr.P.C., I find that accused itself examined one witness and closed the evidence. Nothing has been mentioned as to why the accused had not come to the witness box at that time. The perusal of the record shows that these applications have been filed by the accused-petitioners just to delay the proceedings.

In view of the above discussion, I find that impugned orders passed by learned Courts below are correct, as per law and do not require any interference from this Court.

Therefore, finding no merit in the present petition, the same is dismissed.

July 23, 2019
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No