

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

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**CRM-M No. 32355 of 2019
Date of decision : 18.11.2019**

M/s Ambica Electricals

.....Petitioner

Vs.

M/s Garima Enterprises Pvt. Ltd.

.....Respondent

Coram: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. Tanmoy Gupta, Advocate, for the petitioner

Rajbir Sehrawat, J. (Oral)

This petition under Section 482 of the Code of Criminal Procedure has been filed for quashing of the order dated 8.12.2018 passed by the Judicial Magistrate Ist Class, Faridabad, vide which the defence evidence of the petitioner in a Complaint bearing No. NACT/1545 of 2017 dated 11.4.2017, titled as M/s Garima Enterprises Pvt. Ltd. v. M/s Ambica Electricals was closed.

It is contended by learned counsel for the petitioner that the Court below had wrongly closed the oral defence evidence of the petitioner. The petitioner has not been granted due opportunity to lead the evidence in his defence. Still further it is submitted that although the petitioner was granted more than 6 opportunities to lead the evidence, however, he could not complete his defence evidence due to the fact that on some date some application was filed, on some dates the presiding officer of the Court was on leave and on some date the petitioner himself was caught in the problems at his house. Even the earlier counsel for the petitioner, appearing before the trial

Court had not shown due diligence. Because of cumulative effect of all these

things, the petitioner could not lead the oral evidence. Accordingly, the Court below has passed the impugned order. However, laxity on the part of the petitioner is not intentional. The same has happened because of the facts beyond the control of the petitioner.

Having heard learned counsel for the petitioner and having perused the file, this Court finds no material irregularity or illegality in the order passed by the Court below. The impugned order was passed after granting more than 6 opportunities to the petitioner to lead oral evidence in his defence.

However, since the petitioner is accused of an offence in this case, which can lead even to the sentence of imprisonment, therefore, lest the petitioner should have any grievance, though mistaken, that he is not being granted proper opportunity to defend himself, it would not be unjustified to grant him one more opportunity to lead his defence evidence, however, by putting him to appropriate financial burden.

In view of the above, the petition is disposed of with a direction to the trial Court to grant one more effective opportunity to the petitioner to lead his defence evidence, subject to payment of Rs.10,000/-as costs. The costs is ordered to be deposited with Institute for the Blinds, Sector 26, Chandigarh.

However, it is further clarified that the trial Court shall grant the opportunity to the petitioner only when the petitioner produce before it, the receipt of having deposited the costs of Rs.10,000/-, as ordered above.

(RAJBIR SEHRAWAT)
JUDGE

18.11.2019

Ashwani

Speaking/Reasoned	:	Yes/No
Reportable	:	Yes/No