

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

CRM-M No.47879 of 2019 (O&M)
DATE OF DECISION : 08th NOVEMBER, 2019

Harpreet Singh Malhotra

.... Petitioner

Versus

Inderjit Singh

.... Respondent

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

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Present : Mr. Naveen Bawa, Advocate for the petitioner.

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RAJBIR SEHRAWAT, J. (Oral)

The present petition has been filed by the petitioner under Section 482 Cr.P.C. for quashing/setting aside impugned order dated 06.09.2018 (AnnexureP-4), passed by JMIC, Ludhiana in Complaint No.COMA/3690 of 2016 dated 16.04.2016 filed under Section 138 of the Negotiable Instruments Act, 1881, Police Station Division No.4, Ludhiana, titled as “Inderjit Singh Versus Harpreet Singh”, vide which the application under Section 311 Cr.P.C. for recalling the respondent for the purpose of cross-examination, has been dismissed, and order dated 07.08.2019 (Annexure P-5) passed in Criminal Revision No.110 dated 03.10.2018 titled as “Hapreet Singh Malhotra Versus Inderjit Singh” by Additional Sessions Judge, Ludhiana.

Learned counsel for the petitioner contends that the application moved by the petitioner for recalling the complainant for cross-examination by the accused/petitioner, has been wrongly dismissed without having regard to the factors relevant for exercising the discretion under Section 311 Cr.P.C. It is submitted that although earlier the

petitioner had cross-examined the complainant, however, certain relevant questions could not be put to the complainant. Hence, the defence of the petitioner would be prejudiced if the petitioner is not granted opportunity to cross-examine the complainant.

As an answer to specific query from the court, the counsel for the petitioner has pointed out that the questions, which the petitioner intends to ask from the complainant, are pertaining to the availability of funds with the complainant, from which the complainant claims to have advanced to the petitioner. However, this court is of the view that the availability of the own funds with the complainant; is not even required to be proved for proving the offence under Section 138 Negotiable Instruments Act against the accused. In any case, the petitioner had already availed the opportunity of cross-examination of the complainant.

Otherwise also, the complaint involved in the case is of the year 2016. Therefore, the disposal of the complaint has already been sufficiently delayed. Hence, the trial court is not wrong in observing that the present application is moved as an attempt to prolong the trial, as such.

In view of the above, finding no merits, the present petition is dismissed.

8th NOVEMBER, 2019
'raj'

(RAJBIR SEHRAWAT)
JUDGE

Whether speaking/reasoned:

Yes

No

Whether Reportable:

Yes

No