

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

Sr. No.106

CRR No.3352 of 2019

DECIDED ON: December 11, 2019

JOGINDER SINGH

..PETITIONER

VERSUS

BALJIT SINGH

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. L.S. Sidhu, Advocate, for the petitioner.

SUDHIR MITTAL, J. (ORAL)

The petitioner seeks quashing of order dated 30.10.2019 whereby his application for rejection of the affidavit of the power of attorney has been rejected.

2. A complaint under Section 138 of the Negotiable Instruments Act, 1881 has been filed against the petitioner. The said complaint was filed through power of attorney holder. In the evidence of the complainant, the complainant has submitted his own affidavit and the affidavit of the power of attorney holder has also been filed. According to the complaint, the power of attorney holder was a witness to advancement of loan by the complainant and issuance of cheque by the accused. It is in support of these pleadings that the power of attorney holder has filed his affidavit.

3. Learned counsel for the petitioner submits that only the complainant can depose in support of the complaint. Permitting the power of attorney holder also to depose in support thereof is illegal as the status of

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both of them is identical. Two affidavits cannot be sworn by a party possessing identical legal character.

4. The argument of learned counsel for the petitioner is misconceived. A complainant can file an affidavit in support of his complaint and thereafter supplement the same by supplementary affidavit. Thus, there is no bar to him filing two affidavits. Even if the affidavit of the power of attorney holder is construed as a second affidavit of the complainant, it can be taken on record as a supplementary affidavit. The contents of the affidavit of the power of attorney holder are not beyond pleadings and thus, I see no good reason to set aside the impugned order.

5. The petition is without merit and is dismissed.

December 11, 2019

Ankur

**(SUDHIR MITTAL)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No