

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of decision: - 28.01.2020

(1) CRM-M-3672-2020

M/s Mehar Chand Jewellers and another

...Petitioners

Versus

Dheeraj Bansal

.....Respondent

(2) CRM-M-3676-2020

M/s Mehar Chand Jewellers and another

...Petitioners

Versus

Dheeraj Bansal

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Amandeep Chhabra, Advocate for the petitioners.

HARNARESH SINGH GILL, J. (ORAL)

This order shall dispose of the above noted two petitions as common questions of law and facts are involved therein.

Prayer in the present petitions is for setting aside the orders dated 21.10.2019, passed by the learned Judicial Magistrate, Ist Class, Bathinda, whereby oral evidence of the petitioners had been closed and the impugned orders dated 10.01.2020, passed by the learned Sessions Judge, Bathinda, whereby the orders passed by the learned trial Court, were upheld.

Learned counsel for the petitioners state that in defence, the petitioners wanted to examine Mr. Sukhvir Singh, M.C, Nihal Singh Wala, District Moga. The said witness had appeared before the Court and he was

examined on 7.5.2019, but his cross-examination was deferred on the request of the counsel for the complainant. However, on the adjourned date, he did not turn up. Learned counsel for the petitioners states that once the said witness did not turn up for his remaining cross-examination, his presence could have been secured by the learned trial Court, by way of issuance of bailable warrants, which course, was not followed and instead impugned orders were passed.

I have gone through the orders passed by the Courts below. It is a case where the statement of accused under Section 313 Cr.P.C. was recorded on 26.04.2018 and petitioners had filed list of witnesses to be examined in defence, after six months. They had already availed of 25 opportunities to lead evidence. Non-bailable warrants of Sukhvir Singh issued on 23.07.2019, could not be served because of incomplete address and again when incomplete address was filed by the petitioners, evidence was closed by order on 21.10.2019. Additionally, the costs imposed was also not deposited by the petitioners.

Notice in the present case is not being issued to the respondent-complainant, as it may cause delay in proceedings before the learned trial Court.

This Court is conscious of the fact that the proceedings under under Section 138 of the Negotiable Instruments Act, 1881, should be decided within a period of six months but in present case the matter has been pending adjudication before the trial Court for more than three years.

Even this Court is conscious of the fact that the petitioners have already availed number of opportunities to lead evidence and have failed to

file correct address of aforesaid Sukhvir Singh who was examined on 07.05.2019 as DW-4.

As the prayer of the petitioners is only for grant of one opportunity to conclude their evidence, this Court allows that present petitions. Consequently, the orders passed by the Courts below are set aside and the petitioners are granted one effective opportunity to conclude their evidence, subject to payment of costs of Rs.10,000/- in each case to be paid to the respondent-complainant. The said costs shall be over and above the costs already imposed by the trial Court.

Both the petitioners are allowed in the above terms.

(HARNARESH SINGH GILL)
JUDGE

28.01.2020

ds

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No