

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

CRR-495-2020

Date of decision:-17.2.2020

Raman Sharma

...Petitioner

Versus

Ashok Dawar

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.A.P. Kaushal, Advocate
for the petitioner.

H.S. MADAAN, J.

In a complaint under Section 138 of the Negotiable Instruments Act, 1881 titled 'Ashok Kumar Dawar Versus Raman Sharma', during the course of trial, the accused Raman Sharma had filed an application for summoning the concerned Clerk along with record of complaint titled as 'Deepak Dawar Versus Sonia Sharma' to prove on record complaint, affidavit, documents and cross examination recorded on the said complaint. He also wanted to summon the record of IDBI Bank, Feroze Gandhi Market, Ludhiana with regard to cheque in question, besides examining concerned Clerk of SBI, Chaura Bazaar, Ludhiana along with record of account opening form and specimen signature card of Sonia Sharma.

It may be mentioned here that complainant Ashok Kumar

Dawar had filed a separate complaint against Sonia Sharma wife of accused Raman Sharma.

That application was opposed vehemently on behalf of the complainant. Learned Magistrate dismissed the application with the following observations:

“The accused wants to examine defence witnesses. It is a matter of record that another complaint Deepak Dawar Vs. Sonia Sharma is pending and proceedings in that case are stayed by the Hon'ble High Court. It is pertinent to mention here that the witnesses sought to be examined by the defence has no relevancy in this case. Parties in both the cases are different. Therefore, in light of the facts and circumstances of the present case and averments made in the application, this Court finds the present application without merits and liable to be dismissed. Allowing such kinds of applications will flood open the gates for similar kind of applications in each and every case, which will ultimately become abuse of process of law. It is correct that under Section 311 Cr.P.C. put obligation upon the Court to summon and examine and recall and re-examine any witness where the evidence of such witness is essential for the just decision of the case. However, in the present case, this Court is of confirm and considered view that the facts on which the applicant/accused seeks summoning and examination of witnesses has no relevancy in this case. Therefore, this Court

does not find the summoning and examination of the witnesses essential for the just decision of the case.

Feeling aggrieved, the accused has approached this Court by way of filing of revision petition seeking setting aside of the order in question and acceptance of application under Section 311 Cr.P.C.

I have heard learned counsel for the petitioner besides going through the record and I find that there is absolutely no merit in the petition.

No doubt the accused has a right to lead evidence in defence during trial against him but that evidence must be relevant. He cannot be permitted to summon and produce evidence, which has little bearing on the controversy between the parties in the said criminal litigation. As rightly observed by the trial Magistrate, the witnesses sought to be summoned and examined do not have any relevance. Therefore, the application was dismissed being not covered by Section 311 Cr.P.C.

As regards the authorities i.e. **Kalyani Baskar Versus M.S. Sampooram, 2007(1) RCR(Criminal) 311, Sivanandha Steel Ltd. and Others Versus Upasana Finance Ltd., 2011 (1) RCR(Criminal) 86 and Shri Ishwar Versus Sri Suresh, 2010(2) RCR(Criminal) 345**, referred to by learned counsel for the petitioner, those do not find application to the present case due to different facts and circumstances and the context in which such observations had been made.

The law is well settled that the revisional jurisdiction of this Court is quite limited. This Court is to interfere only if there is an

illegality or infirmity apparent on the face of the judgment/order passed by a Court below or the same is perverse and not otherwise.

In the present case, I do not find any such illegality or infirmity with the impugned order much less apparent on the face of it. The order is certainly not in violation of settled principles of criminal jurisprudence. I do not see any reason to upset the impugned order.

Finding no merits in the present revision petition, the same stands dismissed.

17.2.2020
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No