

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

CRM-M-6533-2020
Date of Decision:-13.2.2020

RAKESH MAHAJAN

... Petitioner

Versus

M/S DEEP OVERSEAS AND ANOTHER

... Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Umesh Kumar Kanwar, Advocate
for the petitioner.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has approached this Court challenging order dated 4.12.2019 (Annexure P-5), whereby the trial Court has dismissed an application filed by the petitioner (complainant) so as to examine Vineet Mahajan and has further ordered for closure of the evidence.
2. A few facts necessary to notice for disposal of this petition are that the petitioner had instituted a complaint under Section 138 of Negotiable Instruments Act against the respondents-accused in the year 2016 wherein the respondents were summoned. During the course of proceedings of the trial, the petitioner moved an application seeking permission of the Court to examine his son as his attorney on the ground that he was not keeping good health and was having orthopedic ailment and thus and was unable to bear exertion. The said application was contested by the respondents. The trial

Court while considering the said application noticed that the matter had been fixed for cross-examination of the complainant/Rakesh Mahajan on several dates i.e. on 27.4.2017, 12.5.2017, 25.5.2017, 6.7.2017, 14.7.2017, 11.8.2017, 11.9.2017 and 11.10.2017 who had failed to appear and it was subsequently that an application was moved on his behalf seeking permission to examine his special attorney Sh. Vineet Mahajan. The learned trial Court observed that although the petitioner/complainant had taken plea of ill-health but in fact he was very much pursuing his other complaints pending in some other Courts wherein he had been appearing as a witness regularly. In these circumstances, the trial Court did not find any sufficient ground to accept the application and the same was dismissed vide order dated 13.12.2018.

3. It was subsequently, after recording of statement of complainant, that application dated 4.12.2019 (Annexure P-2) was moved under Section 311 Cr.P.C. on behalf of the complainant seeking permission to examine Sh. Vineet Mahajan as a witness. The said application was considered by the trial Court and was declined vide impugned order dated 4.12.2019 (Annexure P-5) while observing that there was no justifiable ground for permitting the same application.
4. I have heard learned counsel for the petitioner. The conduct of the petitioner in the present case can hardly be appreciated inasmuch as he had been making efforts to examine his son as a witness in one way or the other and had initially moved an application seeking permission of the Court to examine him in the capacity of complainant's attorney which was however declined while noticing that petitioner had raised false pleas as regard his

health whereas he was regularly pursuing his other cases in Court. The present application under Section 311 Cr.P.C. was another attempt on the part of the complainant to examine his son although no justifiable reasons are forthcoming as to why his son was not cited as a witness at the initial stage. The application is nothing, but an attempt to delay conclusion of trial. No justifiable reason is forthcoming for permitting his examination as a witness at this belated stage. This Court does not find any infirmity in the impugned order and the same is hereby affirmed. Finding no merit in the petition, the same is dismissed.

(GURVINDER SINGH GILL)
JUDGE

13.2.2020
Gaurav Sorot

Whether reasoned / speaking?	Yes / No
Whether reportable?	Yes / No