

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

CRR-689-2020

Date of decision: March 04, 2020

Rajwinder Kaur

....Petitioner

Versus

Davinderjit Singh and another

....Respondents

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mohd. Salim, Advocate
for the petitioner.

VIVEK PURI, J.(ORAL)

It has been submitted by learned counsel for the petitioner that accused is facing trial for having committed offence under Section 138 of Negotiable Instruments Act. He had moved an application under Section 311 Cr.P.C. for recalling the complainant for further cross-examination. Further cross-examination has been sought on the score that the petitioner has deposited substantial amount in the account of the complainant but he could not be cross-examined on that aspect by the earlier counsel. The application has been dismissed vide order dated 07.02.2020 and the same has been challenged in the present revision.

It has been stated that the complainant had examined himself on 3rd April, 2019 and deposits were made prior to it. The perusal of the order of the trial Court reveals that statement of accused under Section 313 Cr.P.C. was recorded on 2nd May 2019 and since then the accused has examined 3 witnesses in his defence and the present application was moved thereafter on 17th December, 2019.

In the event of petitioner had exercised due diligence, the complainant could not have been cross-examined on the aspect of deposit of the amount, if any, by him at the earlier instance. It has been stated that

deposits were made prior to the cross-examination of the complainant. Merely because earlier counsel had shown laxity in not cross-examining the complainant, on that score, it cannot be construed as a ground to recall the witness and permit to fill the lacunae in the case, if any. Moreover, full and effective opportunity has already been afforded to the petitioner to cross-examine the complainant and furthermore, in the event any deposits have been made by the petitioner in the account of the complainant, the same can also be proved by him during the course of defence evidence. As such, no illegality or irregularity is made out in the order passed by the learned trial Court vide which the application under Section 311 Cr.P.C. for recalling the complainant for further cross-examination has been dismissed, which may call for any interference by this Court.

Petition is dismissed accordingly.

04.03.2020

m. sharma

**(VIVEK PURI)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No