

**In The High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-10638-2020 (O&M)

Date of Decision:-16.3.2020

Rajesh Rana

... Petitioner

Versus

Babu Ram

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Ramesh Hooda, Advocate for the petitioner.

GURVINDER SINGH GILL, J.(Oral)

1. The petitioner has approached this Court challenging order dated 29.2.2020 (Annexure P-6) passed by learned Judicial Magistrate 1st Class, Karnal, whereby an application filed by the petitioner/accused seeking summoning of two witnesses i.e. an official from the Office of Official Liquidator, Chandigarh and a Clerk from General Hospital, Kaithal in his defence has been partly allowed and has been declined qua summoning of concerned Clerk of General Hospital, Kaithal.
2. The learned counsel for the petitioner has submitted that the petitioner has been facing trial in respect of a complaint instituted against him by respondent Babu Ram for offence punishable under Section 138 of Negotiable Instruments Act and that after conclusion of prosecution evidence and recording of statements of the accused under Section 313 Cr.P.C., when matter was fixed for recording defence evidence, an

application was moved by the petitioner seeking summoning of two witnesses in his defence i.e. an official from the Office of Official Liquidator, Chandigarh and a Clerk from General Hospital, Kaithal and that although the learned counsel for the complainant expressed no objection for allowing of the said application, the Trial Court allowed the same only qua summoning of the official from the Office of Official Liquidator and declined the same qua summoning of concerned clerk from the Office of General Hospital, Kaithal.

3. The learned counsel for the petitioner has submitted that in the present case summoning of the concerned clerk from the Office of General Hospital, Kaithal was necessitated on account of the fact that during the course of cross-examination of CW-1 Zile Singh he stated that Narender Kumar (co-accused) had come to his father to hand over the cheque in question on 31.8.2013, whereas infact the said co-accused was posted in Kaithal on the said day in General Hospital and, as such, could not have visited Karnal to hand over the cheque in question.
4. I have considered rival submissions addressed before this Court.
5. The complainant Babu Ram was a resident of Karnal and upon his death the matter is being pursued by his son Zile Singh (CW-1). Even if the contention of the petitioner to the effect that his co-accused Narender Kumar was posted at Kaithal on 31.8.2013 is accepted to be correct, still the same can not demolish the case of the complainant inasmuch as the distance between Karnal and Kaithal is merely 60-70 kilometers and it is quite possible for the accused Narender Kumar to have traveled the said distance either before the office hours or after office hours. In any case, 31.8.2013 happens to be a

Saturday and the co-accused Narender Kumar even if posted at Kaithal, could have easily traveled to Karnal after office hours.

6. In these circumstances, the witnesses sought to be summoned by the petitioner would not advance the case of the petitioner in any manner and, as such, the order dated 29.2.2020 (Annexure P-6) passed by learned Judicial Magistrate 1st Class, Karnal in declining the request of the petitioner to summon the said witnesses cannot be said to have caused any prejudice to the petitioner. There is no infirmity in the impugned order.
7. Finding no merit in the petition, the same is hereby dismissed.

16.3.2020
pankaj

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned	Yes / No
Whether Reportable	Yes / No