

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

**CRM-M No.7153 of 2020(O&M)
Date of decision :February 05, 2021**

Jugal Kishore @ BittaPetitioner
Versus

Savita DhawanRespondent

2. CRM-M No.7120 of 2020(O&M)

Jugal Kishore @ BittaPetitioner

Versus

Savita DhawanRespondent

3. CRM-M No.7095 of 2020(O&M)

Jugal Kishore @ BittaPetitioner

Versus

Savita DhawanRespondent

AND

4. CRM-M No.7154 of 2020(O&M)

Jugal Kishore @ BittaPetitioner

Versus

Savita DhawanRespondent

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: Mr. Naveen Bawa, Advocate
for the petitioner.

Mr. Vipul Goel, Advocate
for the respondent.

HARINDER SINGH SIDHU, J.

The case is taken up through video conferencing on account of COVID-19.

This order shall dispose of four Criminal Miscellaneous petitions bearing Nos.7153, 7120, 7095 and 7154 of 2020, as the issue raised therein is similar and between the same parties.

For the purpose of adjudication, the facts are being taken from CRM-M-7153-2020.

By filing this petition under Section 482 of the Code of Criminal Procedure, 1973, the petitioner has sought quashing the order dated 29.01.2020 of the learned Judicial Magistrate Ist Class, Ludhiana whereby the defence evidence of the petitioner has been closed by order.

The respondent has filed Complaint bearing COMA No.12659 of 2017, dated 23.10.2017 (Annexure P-1) under Section 138 of Negotiable Instruments Act, 1881 read with Section 420 IPC, 1860 titled as 'Savita Dhawan Versus Jugal Kishore' against the petitioner.

Notice in the said complaint was issued to the petitioner. After notice, the petitioner has been appearing in the trial Court on each and every date and pursuing his case. The prosecution evidence was concluded on 05.04.2019. Thereafter, the statement of the petitioner under Section 313 Cr.P.C was recorded on 16.05.2019 and the case was adjourned for defence evidence. The petitioner moved an application under Section 315 Cr.P.C which was allowed on 04.10.2019. The same day, the petitioner was partly examined and his cross-examination was deferred and he was bound down

for 04.11.2019. On 04.11.2019 the Presiding Officer was on leave and the case was adjourned to 14.11.2019. On 14.11.2019, no DW was present and the case was adjourned to 12.12.2019. On 12.12.2019 the Presiding Officer was again on leave and the case was adjourned to 22.01.2020.

On 22.01.2020 the petitioner could not appear. The Learned trial Court recorded in its order dated 22.01.2020 that no list of DWs had been provided by the petitioner. Accordingly, last opportunity was given to the petitioner to examine all the DWs on the next date of hearing i.e. 29.01.2020 at his own responsibility and cost. On 29.01.2020, the petitioner was present and was partly cross-examined. The case was adjourned to 04.02.2020 for further cross-examination of the petitioner. As no other DW was examined by the petitioner on 29.01.2020 the defence evidence was closed by order except for cross-examination of the petitioner for which purpose the case was adjourned to 04.02.2020.

It is the case of the petitioner that the failure of the petitioner to appear before the Ld. Trial Court on 22.01.2020 was because of some pressing circumstances beyond his control. On 03.01.2020 his father-in-law had expired and his bhog ceremony was fixed on 21.01.2020 at Delhi. On 22.01.2020 the uncle (Mama) of the petitioner expired whose cremation was to take place on 22.01.2020 at Ludhiana. He has annexed the death certificates and the Bhog ceremony cards.

Learned counsel for the petitioner has argued that on 04.02.2020, the cross-examination of the petitioner was concluded. The petitioner needs to examine two witnesses namely Amandeep Singh and one Kamal. The examination of these witnesses is crucial to his defence. In

case the two witnesses are not examined he would suffer irreparable loss. He prays that he be granted one opportunity to examine the said witnesses at his own cost and responsibility. He states that the next date of hearing before the Trial Court is 11.02.2020.

Ld. Counsel for the respondent has opposed the grant of any opportunity to the petitioner by contending that the petitioner has been deliberately adopting dilatory tactics and the case has been pending since long.

Taking into account the totality of circumstances of the case, in my view, the petitioner deserves to be given one last opportunity to examine the aforesaid two witnesses.

Accordingly, all the four petitions are allowed. The impugned orders dated 29.01.2020 closing the defence evidence are set aside. The learned trial court is requested to grant one last opportunity to the petitioner to examine two witnesses namely Amandeep Singh and Kamal on the next date of hearing i.e 11.02.2021. This shall be subject to the payment of Rs.5000/- (five thousand only) as costs in each of these cases, to be paid to the respondent.

05.02.2021

gian

(HARINDER SINGH SIDHU)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No