

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

Criminal Misc. No.M-34164 of 2021(O&M)

Date of Decision: November 16, 2021

Jugal Kishore @ Bitta

...Petitioner

Versus

Savita Dhawan

...Respondent

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

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

Mr.Yogesh Goyal, Advocate for the respondent.

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HARINDER SINGH SIDHU, J.

By filing this petition under Section 482 Cr.P.C., the petitioner has challenged the order dated 05.08.2021, passed in Complaint No.COMA No.12662 of 2017, dated 23.10.2017, under Section 138 of Negotiable Instruments Act, 1881 read with Section 420 IPC titled "Savita Dhawan Versus Jugal Kishore", whereby, the application filed by the petitioner under Section 311 Cr.P.C. for producing on record few documents, has been dismissed.

The respondent has filed the complaint under Section 138 of Negotiable Instruments Act, 1881 read with Section 420 IPC against the petitioner on account of dishonour of a cheque for a sum of Rs.10,00,000/- issued in favour of the respondent.

The petitioner put in his appearance. 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. On 04.10.2019, the petitioner was partly examined and his cross-examination was deferred and he was bound down for 04.11.2019. Thereafter, vide order dated 29.01.2020 the defence evidence was closed by order except for

cross-examination of the petitioner. The petitioner challenged the said order before this Court by filing CRM--M-7153-2020, which was allowed on 05.02.2021 and the order dated 29.01.2020 closing the defence evidence was set aside. The trial Court was 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, subject to the payment of Rs.5,000/- as costs. In pursuance of the said order, Amandeep Singh and Kamaljit Singh were examined on 11.02.2021 and 24.02.2021 as DW-2 and DW-3 respectively.

Thereafter, on 20.04.2021 petitioner filed application under Section 311 Cr.P.C. for additional evidence for producing on record two documents, namely; i) Panchayati Razinama between respondent-Savita Dhawan and Amandeep Singh-DW-2 and ii) Complaint No.556-5C/ADCP-4, dated 16.08.2018 moved by Dr. Anup Dhawan at the instance of respondent-Savita Dhawan against the petitioner. The respondent contested the said application. Vide the impugned order dated 05.08.2021, the said application has been dismissed. Hence, the present petition.

Learned counsel for the petitioner has submitted that at the time of leading defence evidence above said documents were not in possession of the petitioner. Now, the petitioner has obtained copies of these documents, as such, he wants to produce them on record for just and proper adjudication of the controversy. He has further submitted that it is settled law that if the production of any document is material and necessary for the just and fair decision of the case, such document can be permitted to be produced on the file.

Having heard Ld. Counsel for the petitioner and going through the paper-book, I find no merit in the petition.

The defence of the petitioner was first closed vide order dated 29.01.2020, which order was challenged by him before this Court. He was

granted one last opportunity to examine the two witnesses Amandeep Singh and Kamaljit, subject to payment of costs of Rs.5000/-. The evidence of the said witnesses concluded on 24.02.2021. The same day the petitioner got recorded his statement that he had closed his defence evidence. After about two months thereafter, he filed the instant application on 20.04.2021 for placing on record two documents, mentioned above.

The facts speak for themselves. There is inordinate delay in filing the application. There is no satisfactory explanation as to why the said documents could not be produced earlier. The trial in a complaint case under Section 138 of the Negotiable Instruments has been prolonging for almost four years. In the circumstances, there is no infirmity in the order of the Trial Court rejecting the application of the petitioner.

Petition dismissed.

November 16, 2021

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(HARINDER SINGH SIDHU)
JUDGE

Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No