

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.122-2

CRM-M-40590-2021

Date of decision: 29.09.2021

S.S. Agency and others

....Petitioners

Versus

Suresh Kumar Sachdeva

....Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. M.S. Rana, Advocate, for the petitioner.

* * *

DEEPAK SIBAL, J. (Oral)

The matter has been taken up through video conferencing.

Through the present petition filed under Section 482 Cr.P.C. challenge is made to the order dated 22.01.2021 passed by the Judicial Magistrate, Ist Class, Sonapat (for short – the Trial Court) through which an application filed by the petitioner seeking recalling of the complainant to be cross-examined again has been dismissed.

The respondent filed a complaint under Section 138 of the Negotiable Instruments Act, 1881, seeking to prosecute the petitioners on the ground that three cheques of Rs. 5 lakhs each issued by them were dishonored on presentation. During the course of the trial, the complainant-respondent led his entire evidence and while doing so he appeared as his own witness and was also cross-examined. When the complainant's evidence was over, the petitioners filed an application seeking to recall the respondent to be cross-examined again on the ground that they had changed their counsel and that their earlier counsel had failed to put certain questions to the complainant. Such application of the petitioners was dismissed by the Trial Court through the order under challenge in the present proceedings.

Learned counsel for the petitioners submitted that the Trial Court has erred in dismissing the petitioners' application for recalling the complainant to be cross-examined again as such order was passed even without issuing a notice to the respondent and that the acceptance of the petitioners' afore prayer would have only furthered the cause of a fair trial.

A perusal of the application filed by the petitioners seeking recalling of the complainant for further cross-examination reveals that the only ground taken therein is that the petitioners have changed their counsel. On such a plea, witnesses cannot be allowed to be recalled especially when the petitioners state in their application that their earlier counsel "might" have left some important references in the complainant's cross-examination. If application on such grounds is to be allowed then it would result in not only in the delaying of prosecution cases but also in the harassment of witnesses.

In view of the above, the impugned order is found not to suffer from any illegality or irregularity warranting interference by this Court under Section 482 Cr.P.C.

Dismissed.

September 29, 2021
Jyoti 1

(DEEPAK SIBAL)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No