

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

CRM-M-49482-2021

Date of Decision: 25.11.2021

Parkash

...Petitioner

Versus

Shishpal Singh

...Respondent

CORAM:HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: Mr. Tribhawan Singla, Advocate for the petitioner

ASHOK KUMAR VERMA, J.

This petition has been filed under Section 482 of the Cr.P.C. for quashing the order dated 28.09.2021 (Annexure P-4) passed by the Judicial Magistrate First Class, Barnala whereby the application filed under Section 311 of the Cr.P.C. for recalling complainant for further cross-examination has been dismissed by the Trial Court.

Brief facts as sculled out from the paper book are that respondent/complainant filed a complaint under Section 138 of the Negotiable Instruments Act, 1881 against the petitioner. The respondent-complainant tendered into evidence his affidavit dated 24.07.2019 (P-1) in his examination-in-chief. The counsel for the accused (petitioner herein) had cross-examined the complainant on 10.12.2019. Thereafter, the petitioner moved an application under Section 311 of the Cr.P.C. for recalling the complainant for his cross-examination. The said application has been dismissed by the learned

Trial Court vide its order dated 28.09.2021 (P-4) which is under challenge before this Court.

Learned counsel for the petitioner submits that the Trial Court has wrongly dismissed the application of the petitioner. Learned counsel submits that at the time of conducting cross-examination of the complainant, some of the very material facts, which were not in the knowledge of the accused at that point of time, could not be put to the above-said witness by the counsel for the accused/applicant who conducted the cross-examination of the said witness. Learned counsel further submits that in case the said witness is recalled for cross-examination, no prejudice is going to be caused to the complainant or the prosecution.

I have heard learned counsel for the petitioner and gone through the paper book.

I am not impressed with the submissions made by learned counsel for the petitioner. From the perusal of the impugned order it transpires that the case is pending for defence evidence and cross-examination had already completed way back on 10.12.2019. The petitioner wants to recall CW-1 Shishpal Singh, respondent herein, for his further cross-examination on the grounds that some material questions were left to be asked to CW-1 Shishpal Singh. It is to be noticed that statement of CW-1 was recorded in chief on 13.11.2019 and his cross-examination was conducted at length on 10.12.2019 i.e. about two years back. There is nothing on record to show as to what material questions have been left to be asked to the said CW-1. It

appears that the petitioner is adopting dilatory tactics to protract the trial on one pretext or the other. In this view of the matter, I am of the considered opinion that the Trial Court has rightly rejected the application of the petitioner for recalling the complainant again for cross-examination.

In view of above, this petition is dismissed.

(ASHOK KUMAR VERMA)
JUDGE

25.11.2021
kothiyal

Whether speaking/reasoned : *Yes*

Whether Reportable : *Yes/No*