

117.

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

**CRM-M-50227-2021**

Date of Decision: 01.12.2021

(Heard through VC)

ADITYA CHOPRA

.... Petitioner

Versus

STATE OF PUNJAB AND ANOTHER

.... Respondents

**CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR**

Present:- Mr. Gagan Oberoi, Advocate, for the petitioner.

Mr. A.S.Gill, Senior DAG, Punjab.

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**JAISHREE THAKUR.J**

This is a petition that has been filed under Section 482 Cr.P.C. for quashing/modification of the order dated 29.10.2021 (Annexure P-16) passed by learned Additional Chief Judicial Magistrate, Ludhiana, in a complaint case registered on 19.11.2012, under Sections 419, 420, 467, 471, 120B, 506 IPC at Police Station Division No.5, Ludhiana.

In the aforesaid complaint, respondent No.2 was summoned for the offences under Sections 419, 420, 467, 471 IPC. Vide order dated 29.10.2021, the application of respondent No.2 seeking permanent exemption was allowed and since the complainant could not examine the CW Sandeep Kumar Saini for want of relevant record and due to non-appearance of any other CW, he was granted last opportunity to produce his entire evidence at his own responsibility and subject to cost of Rs.2,000/- to be deposited with the District Legal Services Authority.

It is argued that no fault can be attributed to the petitioner regarding non-completion of his evidence as the accused-respondent No.2 has been seeking time to cross-examine the witnesses. He has also relied upon the order dated 09.08.2021 to show that the defence counsel has been given last opportunity to cross-examine the witnesses. He has prayed that he be given six effective opportunities to examine his witnesses.

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

The petitioner has filed a complaint against his sister for cheating, forgery, misappropriation of funds held jointly by Veena Chopra mother of petitioner and the petitioner. It is alleged that the accused has fraudulently sold those mutual funds and misappropriated the money. After leading substantial preliminary evidence, the accused was summoned to face trial vide order dated 25.09.2015. She did not appear at the first instance, but did so when non-bailable warrants were issued against her. She moved an application seeking exemption from personal appearance which was also kept pending. The bank officials from Kotak Mahindra Bank were summoned and one of them could not be examined for want of bringing official documents. Other witnesses from the bank were summoned but the cross-examination was not complete as the counsel for the accused respondent sought adjournment. The case also did not proceed on account of the Covid Pandemic. When court work resumed, witnesses were again summoned and the statement of CW3 was recorded but again he was not cross-examined by counsel for the accused. A perusal of the zimni orders

would reflect that the petitioner herein has made every effort to produce his witnesses, but it is the accused respondent who has been seeking adjournment to cross-examine the witness. If the witnesses were summoned and appeared they did so without the relevant record. No fault can be attributed to the petitioner nor does there seem to be an effort on his part to delay the court proceedings. It is also to be noted that the accused has not put in any personal appearance before the court

Therefore in the opinion of the court, the trial Court erred in passing the order directing the petitioner to bring his entire evidence on one day and on payment of costs. The complainant must be allowed to lead his evidence and establish his case and for that let the petitioner herein be afforded four effective opportunities to examine some bank officials along with relevant record and in case, the record is not made available for whatever reason, one more opportunity be also given. Accordingly, the order dated 29.10.2021 is set aside and the cost of Rs.2, 000/- imposed upon the petitioner is set aside.

The present petition is disposed of without issuing notice of motion as it would cause further delay in the proceedings, and no injustice will be caused to the respondent who has been seeking adjournments time and time again.

**(JAISHREE THAKUR)**  
**JUDGE**

**01.12.2021**

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|---------|----------------------------|--------|
| sanjeev | Whether speaking/reasoned: | Yes/No |
|         | Whether Reportable:        | Yes/No |