

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-50718-2021

Date of Decision: 6.12.2021

Gourav

....Petitioner

VERSUS

Dalbir

....Respondent

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Wazir Singh, Advocate
for the petitioner.

KARAMJIT SINGH, J.

The present petition has been filed by the petitioner/accused under Section 482 Cr.P.C. for setting aside order dated 24.2.2020 (Annexure P-3) and another order dated 29.10.2021 (Annexure P-4) passed by Judicial Magistrate, 1st Class, Sonapat vide which the defence evidence of the petitioner was closed by order and the application under Section 315 Cr.P.C. moved by the petitioner was dismissed by the learned trial Court.

The present petition is being disposed of without issuing notice to the respondent.

The brief facts of the case as stated by the counsel for the petitioner/accused are that respondent-Dalbir filed criminal complaint under Section 138 of Negotiable Instruments Act against the petitioner on the basis of dishonour of cheque dated 31.3.2016 worth ₹ 10 lakh. After recording of preliminary evidence, the petitioner was summoned and on his appearance, notice of accusation was served to which he did not plead guilty. After the conclusion of the evidence of the respondent/complainant, the statement of the petitioner under Section 313 Cr.P.C. was recorded.

Thereafter, the petitioner filed an application under Section 315 Cr.P.C. to give evidence on his own behalf but the same was dismissed by the learned trial Court. As per the petitioner, the evidence of the petitioner was also closed by order by the Court concerned.

Counsel for the petitioner contended that both the impugned orders are not sustainable and that no effective opportunity was given to the petitioner to lead evidence in his defence. Even his request under Section 315 Cr.P.C. to appear as a witness on his behalf was also declined by the learned trial Court.

I have considered the submissions made by the counsel for the petitioner accused.

Section 315 Cr.P.C. enables an accused to give evidence on his own behalf to disprove the charges made against him. It is the case of the petitioner that he moved an application under Section 315 Cr.P.C. seeking permission in this regard., In such a factual situation, the petitioner-accused being a competent witness can depose in his defence and his evidence can be considered and relied upon by the learned trial Court while deciding the case. The learned trial Court should have allowed the application moved by the petitioner under Section 315 Cr.P.C., in the interest of justice.

Resultantly, the present petition is allowed and impugned orders dated 24.2.2020 (Annexure P-3) and 29.10.2021 (Annexure P-4) are hereby set aside and the application filed by the petitioner under Section 315 Cr.P.C. stands allowed and permission is hereby given to the petitioner to appear as his own witness before the learned trial Court, subject to deposit of costs of ₹ 10,000/- by the petitioner-accused with District Legal Services Authority, Sonapat which will be a condition precedent for his

examination. It is clarified that only one opportunity is to be given to the petitioner-accused for appearing as a witness on behalf of defence. The petitioner is directed to appear in the trial Court on 20.12.2021.

It is further clarified that in case the respondent is aggrieved in any manner by this order, then he will be at liberty to approach this Court by filing an appropriate petition.

December 6, 2021

Paritosh Kumar

**(KARAMJIT SINGH)
JUDGE**

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No