

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

273

CRM-M-8642-2020 (O&M)

Date of Decision: 17.11.2022

NAVEEN SHARMA

...Petitioner

Versus

DILBAG SINGH SIDHU

... Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Ram Kumar Chauhan, Advocate for the petitioner.

Mr. Vishal Thakur, Advocate for the respondent.

HARNARESH SINGH GILL, J.(Oral)

This is a petition for quashing of order dated 13.02.2020 passed by Judicial Magistrate, 1st Class, Hoshiarpur, in a complaint No.351/2015 dated 26.08.2015 titled 'Dilbagh Singh Sidhu Vs Naveen Sharma' filed under Section 138 of the Negotiable Instruments Act, 1881, vide which the defence of the petitioner has been closed by order.

Learned counsel for the petitioner submits that vide order dated 07.01.2020 passed by the learned trial Court, the application filed by the petitioner for examining the expert witness was allowed and permission to examine the said witness was granted and that, though on 10.02.2020, last and final opportunity was granted to the petitioner to examine the expert witness and conclude his entire evidence, yet vide the impugned order, the defence evidence of the petitioner has been closed by order. He, thus, prays that one more opportunity be granted to the petitioner to examine the expert witness and conclude the entire evidence, as the same would be required for just and proper adjudication of the matter.

Per contra, learned counsel for the respondent submits that due opportunities were granted to the petitioner to lead his evidence but he failed to do so and thus, the order closing his evidence was passed by the Court below. He, however, has no objection if the present petition is allowed and the petitioner is granted one last opportunity to examine the expert witness and conclude his entire evidence.

I have heard the learned counsel for the parties.

Admittedly, sufficient opportunities were granted to the petitioner to lead his evidence and examine the expert witness but as he had failed to do so, the trial Court was left with no option except to pass the order under challenge.

Be that as it may. Keeping in view the no objection from the learned counsel for the respondent, the present petition is allowed and the impugned order dated 13.02.2020 passed by Judicial Magistrate, 1st Class, Hoshiarpur, is hereby set aside.

One last opportunity is granted to the petitioner to examine the expert witness and to conclude his entire evidence, subject to him depositing Rs.5,000/- with the concerned District Legal Services Authority, failing which no other opportunity shall be granted. The respondent would be at liberty to cross-examine the said witness on the same day.

17.11.2022

Aman Jain

(HARNARESH SINGH GILL)
JUDGE

Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*