

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

238

CRM-M-21043-2022(O&M)

Date of decision: 02.06.2022

RAM SINGH

....Petitioner(s)

Versus

TARLOK SINGH

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present : Mr. Naveen Bawa, Advocate
for the petitioner.

Mr. Mridul Sharma, Advocate
for the respondent.

VINOD S. BHARDWAJ. J. (ORAL)

The instant petition had been filed under Section 482 of the Code of Criminal Procedure for quashing the impugned order dated 10.11.2021 (Annexure P-4) whereby the cross-examination of the respondent-complaint has been treated as Nil passed in Criminal Complaint bearing No. NACT/5567/2018 registration dated 08.10.2018 titled as 'Tarlok Singh V/s Ram Singh' filed under Section 138 of the Negotiable Instruments Act, 1881.

Learned counsel for the petitioner contends that the aforesaid complaint had been instituted by the respondent-complaint against the petitioner alleging that the petitioner had issued cheque bearing No.701106 dated 21.08.2018 for a sum of Rs.1,50,000/- in favour of the respondent-complainant. The said cheque was dishonoured and returned by the bank with the remarks “insufficient funds” vide memo dated 24.08.2018. The proceedings under Section 138 of the Negotiable Instruments Act, 1881 were thereafter instituted wherein the petitioner was summoned and was released on bail vide order dated 24.07.2019.

Learned counsel points out that during the course of proceedings, when the cross-

examination of the respondent-complainant was to be held, the Judicial Magistrate First Class vide order dated 10.11.2021, ordered that the cross-examination of the respondent-complainant be treated as Nil. Aggrieved thereof the present petition has been filed.

Learned counsel contends that the absence of cross-examination of the respondent-complainant would cause severe prejudice to the petitioner and that it would defeat the ends of justice. He further contends that the default in not conducting the cross-examination of the respondent-complainant was neither intentional nor deliberate and was on account of personal difficulty of the counsel on the date fixed. He prays for one opportunity to cross-examine the respondent-complaint.

An undertaking was also given by the petitioner on 17.05.2022 that he is willing to compensate the respondent-complainant with a cost of Rs.10,000/- for unnecessary harassment and delay in the proceedings.

Mr. Mridul Sharma, Advocate appears on behalf of the contesting respondent and submits that he has no objection to the request made by the learned counsel for the petitioner being accepted subject to payment of cost as offered by the petitioner. However, it is submitted that as the proceedings have remained pending for a period of nearly 4 years, no further indulgence be shown and the trial Court may be directed to conclude the evidence expeditiously.

Having heard learned counsel appearing on behalf of the respective parties and considering that severe prejudice is likely to result as a consequence of failure on the part of the petitioner-accused to cross-examine the respondent-complainant, hence, one effective opportunity is granted to the petitioner-accused to cross-examine the respondent-complainant subject to payment of cost of

Rs.10,000/- to the respondent-complainant within a period of 10 days from today.

The parties shall appear before the trial Court on 07.06.2022 or any such date the trial Court may determine for the date for summoning of the respondent-complainant for cross-examination.

In view of the above, the present petition is allowed.

(VINOD S. BHARDWAJ)
JUDGE

June 02, 2022

S.Sharma(syr)

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