

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

CRM-M-20173-2019
Date of Decision:-15.12.2022

Sumit Kumar Goyal

.... Petitioner

Versus

State of Punjab and another

.... Respondents

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Argued by :-

Mr. Deepanshu Mehta, Advocate
for the petitioner.

Mr. Chaman Lal Pawar, Addl. A.G. Punjab.

Mr. Ashish Gupta, Advocate
for respondent No.2.

KARAMJIT SINGH, J.

Petitioner/accused has filed the present petition under Section 482 Cr.P.C. for quashing of order dated 6.2.2019 (Annexure P-1) passed by the Court of learned Judicial Magistrate Ist Class, Faridkot, whereby an application under Section 311 Cr.P.C. filed by respondent No.2 was allowed in a criminal complaint NACT/304/2015 titled Sherinder Singh vs. M/s Shakti Emporuium.

The brief facts of the case are that respondent No.2 filed a criminal complaint under Section 138 of Negotiable Instruments Act against the petitioner with regard to dishonour of cheque and in the said complaint, the petitioner was summoned and notice of accusation was issued, to which he did not plead guilty and then trial commenced and during the trial, respondent No.2 filed an application under Section 311 Cr.P.C. to produce certified copy of the judgment dated 17.10.2018 passed by the Court of learned Judicial Magistrate Ist Class, Faridkot whereby petitioner Sumit Kumar Goyal was convicted and sentenced to imprisonment under Section 138 of Negotiable Instruments Act in a criminal complaint titled Rajiv Kumar Goyal vs. Shakti Emporium through its authorized signatory Sumit Kumar Goyal and Ors. The said application moved under Section 311 Cr.P.C. was contested by the petitioner but the same was allowed by the learned trial Court vide order dated 6.2.2019 (Annexure P-1) and permission was given to respondent No.2 to place on record the certified copy of the aforesaid judgment dated 17.10.2018, with an opportunity to the petitioner to lead evidence in its rebuttal.

The petitioner being aggrieved by the said order has filed the present petition.

The present petition is contested by respondent No.2.

I have heard the counsel for the parties.

The counsel for the petitioner, while challenging the impugned order, has submitted that the judgment in question dated 17.10.2018, which the respondent No.2 intends to produce by way of additional evidence under

Section 311 Cr.P.C. is not between the parties and the said judgment was passed by the Court concerned in a criminal complaint lodged by third party namely Rajiv Kumar Goyal against the petitioner and Shakti Emporium under Section 138 of Negotiable Instruments Act and that the said judgment is not required and has got no relevance for the just decision of the present case. The counsel for the petitioner while referring to Section 43 of the Evidence Act has submitted that the said judgment is totally irrelevant for the adjudication of the present case and even otherwise in an appeal filed by the petitioner, the operation of the said judgment has been stayed by the Appellate Court. The counsel for the petitioner while concluding his arguments has submitted that the impugned order deserves to be set aside being illegal and perverse.

On the other hand counsel for respondent No.2 while supporting the impugned order (Annexure P-1) has submitted that there is no infirmity in the said order. The counsel for respondent No.2 has further submitted that vide judgment dated 17.10.2018, the petitioner was convicted under Section 138 of Negotiable Instruments Act in a criminal complaint filed by some third person. The said previous conviction is relevant to show the previous conduct of the petitioner in such like matters.

I have considered the submissions made by the counsel for the parties.

Undoubtedly, respondent No.2 was not party to a judgment dated 17.10.2018 passed by the Court of judicial Magistrate, Faridkot whereby the petitioner was convicted and sentenced to imprisonment under

Section 138 of Negotiable Instruments Act in a criminal complaint filed by third party namely Rajiv Kumar Goyal.

Admittedly, respondent No.2 has filed criminal complaint under Section 138 of Negotiable Instruments Act against the petitioner, which is pending in the Court of learned Judicial Magistrate Ist Class, Faridkot and respondent No.2 intends to produce certified copy of aforesaid judgment dated 17.10.2018 by invoking provisions of Section 311 Cr.P.C.

There is no doubt regarding the fact that the judgment dated 17.10.2018 is not inter-parties. The said judgment is relating to conviction of the petitioner under Section 138 of Negotiable Instruments Act. Explanation-2 of Section 54 of Evidence Act provides that evidence showing any previous conviction is also relevant as evidence of bad character. Thus the evidence relating to previous conviction (past actions of a person) in a case of similar nature would be relevant by virtue of aforesaid statutory provision of law. So the judgment dated 17.10.2018 whereby the petitioner was convicted under Section 138 of Negotiable Instruments Act, cannot be said to be totally irrelevant for the purpose of final adjudication in the present case. However, the evidentiary value of the same would be evaluated by the learned trial Court at the time of final disposal of a case.

The provision of Section 311 Cr.P.C. can be exercised irrespective of the stage of trial, if the evidence intended to be produced is essential to the just decision of the case. Further the learned trial Court rightly observed that no prejudice would be caused to the accused if the

aforesaid judgment dated 17.10.2018 is taken on record as the petitioner would get an opportunity to rebut the same.

In the light of the above, this Court is of the view that the impugned order is not suffering from any illegality or infirmity. So no interference is called for under Section 482 Cr.P.C.

Consequently the present petition is hereby dismissed being devoid of merits. However, the observations made hereinabove are not to be construed as expression of opinion on the merits of the case. The parties are directed to appear before the trial Court on the date already fixed there.

(KARAMJIT SINGH)
JUDGE

15.12.2022
Gaurav Sorot

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No