

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

CRR No. 2037 of 2017 (O&M)

Date of decision: 13.05.2022

Chaman Lal Kalsi

...Petitioner

Versus

Balihar Chand

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Sachin Jain, Advocate
for the petitioner/complainant.

Mr. Sarju Puri, Advocate
for the respondent/accused.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this revision is for setting aside the order dated 26.04.2017 passed by the trial Court dismissing the application filed by the petitioner/complainant to place on record the notarized copy of passbook of the bank account of the petitioner.

Brief facts of the case are that the petitioner has filed a complaint under Section 138 of the N. I. Act with regard to dishonouring of a cheque for a sum of Rs. 5 Lakh, drawn on State Bank of Patiala, Main Branch, Banga. During the pendency of the complaint, the petitioner moved an application to place on record the notarized copy of the passbook of Punjab National Bank, Nawanshahr Branch, whereas inadvertently the name of the bank was mentioned as Punjab and Sind Bank, Nawanshahr. It is stated in the application that the complainant is in possession of the original

passbook as well as copy of the statement of SBI account at Chandigarh, therefore, for the effective and proper disposal of the complainant, he may be allowed to place on record the said documents.

Reply, filed on behalf of the respondent/accused, is on record, wherein it is stated that the petitioner/complainant is trying to fill up the lacunae by producing the aforesaid documents. It is also stated in reply that there is no direct reference to the aforesaid passbook and cross-examination of the petitioner/complainant was completed on 05.05.2016 and only thereafter, the present application was filed to fill up the lacunae.

The trial Court, vide impugned order dated 26.04.2017, dismissed the said application observing that in the cross-examination of complainant/CW-1, there was no reference to production of the aforesaid passbook of Punjab National Bank, Nawanshahr and, therefore, no purpose will be served by allowing the application. It is also observed that the complainant had ample opportunity to lead his evidence.

Learned counsel for the petitioner/complainant submits that the passbook in question would show that he has given a loan to the respondent/accused in the year 2014 and, therefore, it goes to the root of the case with regard to dispute between the parties regarding legally enforceable debt/liability on account of issuance of cheque to the respondent/accused.

Learned counsel for the respondent/accused submits that the application filed by the petitioner is at belated stage and it has no relevance or requirement for which, the Court is to form an opinion while deciding the complaint.

It is worth noticing that this petition is pending since 2017 and

on 30.05.2017, while issuing notice of motion, the trial Court was directed not to conclude the trial. The said interim order is continuing till date and even the lower Court's record was requisitioned.

After hearing learned counsel for the parties, considering the fact that the trial is already substantially delayed for a period of about 05 years on account of pendency of the present petition and the petitioner has made out a case that the production of the passbook will enable the petitioner to prove the fact that he has extended loan to the respondent/accused in the year 2014, the present petition is allowed and the impugned order dated 26.04.2017 is set aside.

The petitioner is permitted to place on record the notarized copy of the passbook of Punjab National Bank, as sought in the application.

However, this will be subject to payment of costs of Rs. 10,000/- to the respondent/accused.

The trial Court will take a final call regarding admissibility of aforesaid documents at the time of deciding the main complaint.

The Registry is directed to send back the LCR to trial Court, forthwith.

13.05.2022

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No