

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

203

CRM-M-40001-2021

Date of Decision : **April 05, 2022**

Rajinder Singh @ Jonu

.....Petitioner

VERSUS

Deepak Dua

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present : Mr. Sanjeev Roy, Advocate
for the petitioner.

Mr. Akbarjeet Singh, Advocate
for the respondent.

JASGURPREET SINGH PURI. J.

The present petition has been filed under Section 482 of the Code of Criminal Procedure for setting aside the impugned order dated 6.9.2021 (Annexure P-1) passed by learned Judicial Magistrate 1st Class, Jalandhar in complaint No.NACT/5043 of 2017 by which the application filed by the petitioner under Section 311 Cr.P.C. for summoning and examining the witness has been dismissed.

It has been submitted by the learned counsel for the petitioner that the petitioner is an accused in the complaint filed against him under Section 138 of the Negotiable Instruments Act and he had filed an application under Section 311 Cr.P.C. for placing on record the RC of vehicle bearing No.PB08-CB-6740, form No.29 and form No.30 alongwith some other documents duly signed by the complainant in

favour of the applicant regarding the sale consideration of Aactiva scooter. He submitted that the said documents could not be produced and proved earlier and, therefore, the same are required to be produced for just adjudication of the case. He further submitted that the respondent had taken a blank cheque from the petitioner for availing bank loan for purchasing of an Active scooter but the said cheque was misutilized by the respondent and the hire purchase agreement was never executed and, therefore, another chance may be given to the petitioner to adduce the evidence.

On the other hand, the learned counsel for the respondent, who has also filed reply in the present case, submitted that the application filed by the petitioner was nothing but a delaying tactic which can be seen from his conduct. He submitted that the petitioner had availed 8 opportunities i.e. 27.2.2019, 19.3.2019, 18.4.2019, 14.5.2019, 4.7.2019, 26.7.2019, 4.9.2019 and 26.9.2019 to lead defence evidence and the defence evidence was closed by order on 26.9.2019 and thereafter by opting a lenient view, the trial Court again gave 5 opportunities to the petitioner so that the petitioner may adduce documentary evidence but the petitioner again failed to do so and thereafter now the matter has been fixed for arguments and he has filed the present application under Section 311 Cr.P.C. only to delay the proceedings of the Court which have already been delayed since the complaint under Section 138 of the Negotiable Instruments Act is pending since the year 2017 and has, therefore, prayed for dismissal of the present petition.

I have heard the learned counsels for the parties.

It is a case where the petitioner had filed an application under Section 311 Cr.P.C. for producing some documents in his support which according to the petitioner was hire purchase agreement to prove that the cheque was given for the purpose of taking loan. The learned trial Court while considering the aforesaid application observed that the cross-examination of the complainant was conducted in depth by the petitioner and in his entire cross-examination there is no reference of alleged purchase of Aactiva scooter from the complainant and as to whether had any connection with the cheque in question or not. No such reference has been made by the petitioner-accused in the statement recorded under Section 313 Cr.P.C. Apart from the same, the petitioner-accused has already availed numerous opportunities to conclude defence evidence but he did not bother to prove on record the said documents and, therefore, at this stage when the matter is fixed for arguments, no such application can be allowed.

This Court is of the opinion that the complaint under Section 138 of the Negotiable Instruments Act is pending before the trial Court from the year 2017. The complainant was thoroughly examined and many opportunities have already been granted to the petitioner to produce the documents but now when the matter is at the fag end for arguments, the present application has been moved for production of documents. Apart from the same, the learned counsel for the petitioner has not been able to show as to how these documents would be beneficial for the adjudication of the case and why those documents were not produced when sufficient time and opportunities were given to the petitioner.

Consequently, this Court finds force in the arguments raised by the learned counsel for the respondent that the present application has been filed for the purpose of getting the matter delayed. Therefore, finding no merit in the present petition, the same is, hereby, dismissed.

However, anything observed here-in-above shall have no effect on the merits of the case and is meant for deciding the present petition only.

April 05, 2022
ajay-1

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No