

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M No.39912 of 2022 (O&M)
Date of Decision: 12.09.2022

Ajay Dahiya

.....Petitioner

Versus

Virender Malik

.....Respondent

BEFORE: HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present:- Mr. Rajesh Lamba, Advocate
for the revisionist-petitioner.

MEENAKSHI I. MEHTA, J.(Oral)

Feeling dissatisfied with and aggrieved by the order dated 19.10.2021 (Annexure P-2) passed by learned Judicial Magistrate Ist Class, Sonipat (for short 'the trial Court) in the complaint case bearing No. COMA/1186/2016, dismissing the application moved by the petitioner-accused (here-in-after to be referred as 'the accused') under Section 311 Cr.P.C as well as the judgment dated 02.03.2022 (Annexure P-4) handed down by learned Additional Sessions Judge, Sonipat (for short 'the revisional Court'), whereby the revision petition filed by the accused to lay challenge to the order Annexure P-2 has also been dismissed, he (accused) has preferred the instant petition for seeking the quashing of the aforementioned order and the judgment as well.

2. Bereft of unnecessary details, the facts culminating in the filing of the present petition, are that the respondent-complainant (here-in-after to be referred as 'the complainant') has filed the above-said complaint case against the accused under Section 138 of the Negotiable Instruments Act, 1881. During the course of the trial therein, the accused moved an application under Section 311 Cr.P.C for seeking permission to lead the additional evidence by way of examining one Sumit son of Baljeet and Suresh son of Sukhbir as the witnesses in his defence evidence. Vide order Annexure P-2, the trial Court dismissed the afore-said application. The accused challenged the above-said order by filing the revision petition and the same has also been dismissed by the revisional Court vide the impugned judgment Annexure P-4.

3. I have heard learned counsel for the petitioner-accused in this petition at the preliminary stage and have also perused the file carefully.

4. Learned counsel for the petitioner contends that the testimonies of both the above-named proposed defence witnesses would be necessary for the proper decision of the said complaint case but the trial Court has wrongly dismissed the said application vide order Annexure P-2 and the revisional Court has also erroneously upheld the said order vide the judgment Annexure P-4 and in these circumstances, the impugned order as well as the judgment are not legally sustainable and hence, the same deserve to be quashed.

5. However, I do not find the afore-raised contention to be tenable at all because Section 311 Cr.P.C provides for summoning and

examining any witness if it appears to the Court concerned that the same would be essential for the just decision of the case. However, a bare perusal of application Annexure P-1 reveals that throughout therein, the accused has not come forward with any fair, candid and plausible ground/ reason to show as to how the testimonies of both the proposed defence witnesses would be relevant and essential for the just and proper decision of the said complaint case.

6. As a sequel to the fore-going discussion, it follows that the present petition, being devoid of any merit, deserves dismissal. Resultantly, the same stands dismissed accordingly.

September 12, 2022
pooja

(MEENAKSHI I. MEHTA)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>
<i>Whether Reportable:</i>	<i>No</i>