

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

CRR No.1888 of 2022 (O&M)

Date of Decision: 13.09.2022

Anand Parkash @ Bittu

.....Revisionist-petitioner.

Versus

Vivek Kumar Pujara

.....Respondent.

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

Present:- Mr. Umesh Kumar Kanwar, Advocate
for the revisionist-petitioner.

MEENAKSHI I. MEHTA, J.(Oral)

Feeling dis-satisfied with and aggrieved by the order dated 25.07.2022 passed by learned Judicial Magistrate 1st Class-3, Jalandhar (for short 'the trial Court'), whereby the application moved by the petitioner-accused (here-in-after to be referred as 'the accused') under Section 311 Cr.PC with a prayer to recall the respondent-complainant (here-in-after to be referred as 'the complainant') for his further cross-examination, has been dismissed, the accused has preferred the instant revision petition to lay challenge to the same.

2. I have heard learned counsel for the petitioner-accused, at the preliminary stage, in the present revision petition and have also perused the file carefully.

3. Learned counsel for the petitioner-accused contends that the counsel engaged by the accused earlier to defend him in the trial Court, had failed to cross-examine CW1, i.e the complainant, on certain material points/aspects of the matter in dispute between the parties, i.e regarding the pendency of the civil suit between the parties and some more cheques, issued by the accused, being in possession of the complainant and this infirmity was noticed by the counsel engaged by the accused subsequently and therefore, the accused deserves to be afforded the opportunity to cross-examine the complainant on the said aspects/points.

4. However, I do not find the above-raised contention to be tenable at all because learned trial Court has categorically observed in the impugned order that the complainant had already been cross-examined twice, i.e on 20.01.2020 and 04.01.2022 and the factum of the pendency of the civil suit and the other alleged cheques being in possession of the complainant, was already well within the knowledge of the accused and he had moved the afore-said application at the stage when even his statement under Section 313 Cr.P.C had also been recorded and the said application was nothing else but merely an attempt on his (accused's) part to prolong the decision of the case.

5. So far as the factum of the counsel, previously engaged by the accused to defend him in the case, having omitted to cross-examine the complainant on the above-mentioned aspects is concerned, the same does not suffice at all to be a cogent and plausible ground to extend the relief as sought by the accused in this petition, in the circumstances when the

complainant has been cross-examined twice in the case and the factum of the pendency of the civil suit as well as of the complainant allegedly being in possession of the cheques, was already within the knowledge of the accused and he was supposed to have apprised his previous counsel about the same, well in time.

6. As a sequel to the fore-going discussion, it follows that the impugned order does not suffer from any illegality, infirmity, irregularity or perversity so as to warrant any interference by this Court. Resultantly, the revision petition in hand, being *sans* any merit, stands dismissed accordingly.

September 13, 2022
Yag Dutt

(MEENAKSHI I. MEHTA)
JUDGE

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