

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-2170-2019 (O&M)
Date of decision : 21.10.2022

Akeel Ahmed

..... Petitioner

versus

Sahabuddin

..... Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. J.S. Hooda, Advocate
for the petitioner.

Mr. Vikas Saroha, Advocate
for the respondent.

PANKAJ JAIN, J. (Oral)

Present revision petition has been filed at the behest of accused, who is facing complaint under Section 138 of Negotiable Instruments Act, 1881.

2. During the course of trial, the right of the accused to cross examine complainant was closed by the Court vide order dated 08.04.2019 recording as under:-

“Cost not paid. Today the case was fixed for cross-examination of the complainant but same could not be effected despite last opportunity. Again adjournment sought by Ld. Defence counsel without providing any plausible explanation. Ld. Complainant counsel strongly opposed by the request of adjournment. Perusal of record shows that the case is pending for cross examination of the complainant since 21.05.2018 and several effective opportunities has already been availed by defence. The conduct of accused shows that he is unnecessarily delaying the

trial which otherwise is to be tried in summary way. Accordingly, right to cross-examine the complainant provided u/s 145(2) of NI Act is closed by the court order. Now, the case is adjourned to 13.05.2019 for defence evidence, if any and for arguments. DWs shall be produced at own responsibility. Costs be paid on the date fixed.”

3. Counsel for the petitioner submits that right of accused to cross-examine the complainant ought not have been closed as the same would amount to denial of fair trial to the petitioner.

4. Per contra, counsel for the respondent submits that the accused is himself to blame for the present situation as he always intended to delay the trial. He thus submits that being complainant, he also has a right to speedy and fair trial and the accused cannot be allowed to defeat the same by adopting delaying tactics.

5. I have heard counsel for the parties and have gone the records of the case.

6. Without doubt, in case the impugned order is allowed to stand, the complaint is bound to result in conviction of the accused. At the same time the complainant also has a right to expeditious trial. Thus in order to balance the equities, it will be in the interest of justice that the petitioner be granted one opportunity to examine the complainant.

7. Consequently, the present revision petition is allowed. Impugned order dated 08.04.2019 is ordered to be set aside. The trial Court shall grant one opportunity to the petitioner to cross-examine the complainant subject to payment of cost of ₹20,000/- to be paid to the complainant.

8. Further in order to secure the right of the respondent-complainant, it is directed that the trial Court shall make endeavour to conclude the trial within a period of three months from the date of receipt of certified copy of this order.

9. Ordered accordingly.

10. Since the main case has been decided, pending miscellaneous application, if any, also stands disposed off.

(PANKAJ JAIN)
JUDGE

21.10.2022
Dinesh

Whether speaking/reasoned : Yes

Whether Reportable : No