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

CRM-M-51113-2021

Date of decision : 22.03.2022

Inder Singh Chahal

...Petitioner

Versus

Harminder Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Amarjeet Singh Prajapati, Advocate for the petitioner.

(Through Video Conferencing)

VIKAS BAHL, J. (ORAL)

This is a petition filed under Section 482 of Cr.P.C. for quashing of order dated 05.12.2019 passed by the Judicial Magistrate Ist Class, Kharar, District Mohali (Annexure P-6) as well as order dated 20.09.2021 (Annexure P-7) passed by the Sessions Judge, SAS Nagar, Mohali, vide which both the Courts have dismissed the application of the petitioner for recalling the complainant i.e. CW1 namely Harminder Singh for his further cross-examination.

The respondent had filed a complaint under Section 138 of the Negotiable Instruments Act, 1881 on 01.10.2018. Thereafter, respondent-complainant had closed his evidence on 05.08.2019 and the case was fixed for statement of the petitioner under Section 313 of Cr.P.C. It is at the said time that an application (at page 13 of the paper book) was moved for re cross-examination of the abovesaid CW1 on the ground that complainant

had also filed a complaint No.1505 of 2018 against son of the petitioner and in para 4 of the said application, it had been stated that the said fact had not been mentioned in the present complaint and the petitioner was not even aware about the said facts at the time of CW1's cross-examination and the said facts have to be put to CW1 and for the said purpose, he had to be recalled for re-cross examination.

Both the Courts below have dismissed the said application by observing that apart from the fact that the said application had been filed at a belated stage, in the said complaint, it was specifically mentioned in para 2 that son of the petitioner namely Dilbagh Singh had also borrowed a sum of Rs.15,00,000/-, whereas the petitioner had borrowed a sum of Rs.10,00,000/- from the complainant and the said fact was also mentioned in the notice sent to the petitioner by respondent-complainant, copy of which was annexed as Ex.CW3 and the postal receipt of which was exhibited as Ex.CW4 and even in his examination-in-chief Ex.CW1/A which was in the shape of affidavit would also show that in its para 2, respondent had again reiterated the fact of giving loans to the petitioner and his son Dilbagh Singh. It was further observed that the present petitioner had taken 9 adjournments for concluding cross-examination of CW1 and the cross-examination was concluded on 06.05.2019. It was observed that way before 06.05.2019, the petitioner was aware that the case of the complainant was that he had given loan to the petitioner and as well as petitioner's son namely Dilbagh Singh to the tune of Rs.10,00,000/- and Rs.15,00,000/-, respectively and thus, the plea raised by the petitioner to the effect that it was not within his knowledge that a loan had been advanced to his son, was

a false averment. It was observed that there was no need or justification for calling complainant-CW1 for his further cross-examination. The abovesaid fact has not been rebutted by the petitioner. No meaningful argument has been addressed to challenge the said findings of the Courts below.

A perusal of the complaint (Annexure P-1) would show that in para 2 of the same, it has been specifically stated that the complainant had also given an amount of Rs.15,00,000/- to Dilbagh Singh, who is son of the present petitioner. Para 2 of the said complaint is reproduced hereinbelow:-

“2. That the accused from time to time borrowed Rs.10,00,000/- from the complainant with the promise to return the same. His son Dilbag also borrowed Rs.15,00,000/- separately from the complainant. The accused assured to complainant that his son is going to sell one of plot belonging to his family and the accused will return the above said amount of Rs.15,00,000/- (borrowed by his son) and Rs.10,00,000/- (borrowed by the accused) to the complainant in a short period.”

In view of the above, no ground is made out to recall the abovesaid CW1 for re-cross-examination and the impugned orders are rightly passed, in accordance with law and thus, the same deserve to be upheld and the present petition deserves to be dismissed being meritless.

Accordingly, the present petition is dismissed.

22.03.2022

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No