

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

CRM-M-44613-2022 (O&M)
Date of decision: 27.09.2022

Sanjeev Kumar @ Bindu

...Petitioner

Versus

Tarun Mittal

...Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Sumit Jain, Advocate for the petitioner.

HARNARESH SINGH GILL, J. (ORAL)

The petitioner challenges the order dated 05.09.2022 passed by the Judicial Magistrate, Ist Class, Malerkotla, whereby an application filed by the petitioner under Section 311 Cr.P.C., for summoning the concerned official of Union Bank of India Branch GT Road, Khanna along with account statement of Sanjiv Kumar and Nisha Rani from 01.01.2012 to 31.03.2017 was dismissed.

Learned counsel for the petitioner submits that the witness sought to be summoned, was just and relevant, for the proper adjudication of the case and the trial Court, has wrongly dismissed the application holding that the said witness has no relevance with the matter.

After hearing the learned counsel for the petitioner, I do not find any merit in the present petition.

It may be noticed that earlier, an application moved by the petitioner for cross-examination of the respondent was declined by the trial Court on 23.07.2019. The said order was challenged by the petitioner before this Court and a Coordinate Bench vide order dated 20.08.2019, while disposing of the said petition, had granted one opportunity to the petitioner to

cross-examine, the respondent. However, despite grant of said indulgence, the petitioner failed to cross-examine the respondent, which led into passing of the order dated 17.05.2022 by the trial Court. The said order was challenged in CRM-M-30208-2022 before this Court, which was dismissed vide order dated 15.07.2022. The relevant part of the said order would read as under:-

“.....A perusal of the aforesaid extracts would show that the trial Court had granted last opportunity to the petitioner to cross-examine the respondent-complainant, and adjourned the case to 18.10.2019, but still the needful was not done. A perusal of the impugned order would further show that the case was adjourned for a number of dates i.e. 06.04.2021; 27.08.2021, 15.09.2021, 08.10.2021 and 02.12.2021, but still, the cross⁷ examination was not done. The ground of Covid-19 pleaded by the petitioner before the trial Court, has been negated by the trial Court, for the reason that even during Covid-19 period, the Courts remained open in a phased manner, but still no effort was made on the part of the petitioner to cross-examine the respondent-complainant”.

Having availed of numerous opportunities as against the one granted by the Coordinate Bench, there survives no ground to the petitioner to seek for any further indulgence. It clearly seems that the application moved by the petitioner is motivated to linger on the proceedings. In view of the above, finding no merit in the present petition, the same is hereby dismissed.”

As noticed above, the petitioner had filed another application wherein the impugned order has been passed. The learned trial Court has noticed that the counsel for the petitioner had failed to explain as to how the record of Sanjiv Kumar son of Satpal regarding the concerned period, was relevant. From the conduct of proceedings, it seems that the petitioner is in

the habit of filing one after the other application. It is the stand of the petitioner that in his statement under Section 313 Cr.P.C., that he had borrowed an amount of Rs.1,00,000/- from Sanjiv Kumar. The petitioner despite having availed five opportunities, failed to seek summoning the said witness. Even before this Court, it could not be pointed out as to how the examination of the witness sought to be summoned, is relevant in the matter.

In view of the above, finding no merit in the present petition, the same is hereby dismissed.

27.09.2022

Mangal Singh

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No