

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

CRM-M-47921-2022

Date of decision: 17.10.2022

Harjinder SinghPetitioner

versus

State of Haryana and anotherRespondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. D.S. Virk, Advocate
for the petitioner.

Ms. Gaganpreet Kaur, A.A.G., Haryana.

NAMIT KUMAR, J.

This petition has been filed under Section 482 Cr.P.C. for setting aside order dated 17.08.2022 (Annexure P-3), whereby, the Court of the learned JMIC, Ellenabadin has closed the defence evidence of the petitioner in the trial proceedings in complaint filed under Section 138 of the Negotiable Instruments Act bearing CIS No. NACT-390-2017 titled as 'M/s Shri Ram Enterprises vs. Harjinder Singh.'

Learned counsel for the petitioner has referred to the zimini orders dated 13.10.2021; 22.12.2021; 30.03.2022 and 19.05.2022 which are reproduced hereunder:-

“Case was fixed for defence evidence however a date is requested by defence counsel. Heard and allowed. Adjourned to 22.12.2021 for defence evidence, if any and for arguments. Last opportunity granted.

Date of order:-13.10.2021”

“No effective proceeding could be done as Bar Members have abstained from work on account of misbehaviour with a fellow Advocate of Sirsa Bar by a police official.

Therefore case be adjourned to 30.03.2022 for the purpose already fixed.

Date of order:-22.12.2021”

“Summoned witness Ajay Mandal from SBI has been examined as DW1. No other witness is present despite last opportunity still one more date is requested. Heard. In the interest of justice, one more

date is given for concluding defence evidence for 19.05.2022 however subject to payment of cost of Rs. 500/- to be paid to the complainant and Rs. 200/- to be deposited in legal aid fund. Long date is being given due to heavy pendency of cases.

Date of order:-30.03.2022”

“File is taken up today as I shall be availing joining time w.e.f. 17.05.2022 to 24.05.2022. Therefore, the present case is hereby adjourned for 17.08.2022 for the purpose already fixed. Parties/counsel/witnesses be informed accordingly.

Date of order:-19.05.2022”

Learned counsel for the petitioner contends that the case was fixed for defence evidence for the first time on 13.10.2021 and the case was adjourned for 22.12.2021 on his request. On 22.12.2021, no effective proceedings could be done as the Bar members had abstained from work, therefore, the case was adjourned for 30.03.2022. On 30.03.2022, summoned witness-Ajay Mandal from SBI was examined as DW-1 and no other witness was present and one more opportunity for concluding defence evidence was granted for 19.05.2022 subject to payment of cost of Rs.500/- and the case was adjourned. On 19.05.2022, new Presiding Officer joined and no effective proceedings were held and the case was adjourned to 17.08.2022. However, on 17.08.2022, Dilbag Singh was examined as DW-2. Thereafter, learned counsel for the petitioner tendered document as Mark DA in his evidence and requested a date for producing some other documents which were not submitted and the defence evidence has been closed. The said order has been impugned by the petitioner in the present petition.

Learned counsel for the petitioner further submits that in the interest of justice, one more opportunity may kindly be granted for tendering account statement of the firm.

Heard counsel for the petitioner and perused the records.

In view of the relief claimed in the present petition, this Court is of the view that there is no need for issuing notice to respondent No.2 in the present case at this stage to avoid unnecessary expenditure for engaging the lawyer and one opportunity is granted to the petitioner for concluding his defence evidence subject to payment of Rs.3,000/- as costs to be paid by the petitioner to the respondent No.2.

The present petition is disposed off in above terms.

Respondent No.2, if so aggrieved against this order, is at liberty to file an application for recalling of this order.

17.10.2022

Neha

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No