

CRM-M-55265-2022

131 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-55265-2022

Date of Decision: 24.11.2022

Chottu Ram

...Petitioner

Versus

Pawan Kumar Walia and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. G.P.S. Bal, Advocate for the petitioner.

Mr. Joginder Pal Ratra, Sr. DAG, Punjab.

ANOOP CHITKARA, J.

Aggrieved by the dismissal of the application under Section 311 CrPC in an appeal against the judgment of conviction, vide which, the accused wanted to examine SP(Detective), Mohali, Reader to SP (Detective) and two postmen, the petitioner has come up before this Court under Section 482 CrPC.

The nature of this order this Court proposes to pass, no notice is required to be issued to the complainant and the State.

After arguing for some time, Mr. Bal, counsel for the petitioner confines his prayer to examination of Reader to SP (Detective) and withdraws his prayer to examine SP (Detective) and two postmen.

Perusal of the petition reveals that the cheques in question were purportedly to be discharged in legally enforceable debt, which had probably occurred due to one compromise.

The case of the petitioner is that the said compromise was not willful and rather he was forced to sign the same when he was present in the police station. Since the FIR was already existing qua the same, upon which the petitioner/accused was summoned to the police station. The petitioner wants to prove such inquiry report by production of record through the Reader to SP (Detective), Mohali and to place the same on record and approve the signatures on some of the officers concerned.

Section 118 of Negotiable Instruments Act puts a presumption in favour of the holder of the cheque. Given the scope for an accused to prove his case is already restricted by

CRM-M-55265-2022

the legislature. Now if the Courts even start ignoring the limited pleas of the accused to prove that the cheque in question was not legal enforceable debt but was something else; It would be contrary to the criminal jurisprudence where normal presumption of innocence is always draws in favour of the complainant and not the accused.

Thus, in the entirety, even otherwise if the Reader to SP(Detective) is examined, no prejudice is likely to be caused to the complainant.

Given above, petition is allowed and order dated 18.11.2022 stands set aside. Petitioner is permitted to examine the witness on one date. It is clarified that the petitioner shall not seek any adjournment, and for any reasons beyond the petitioner's control, he will not seek more than one adjournment. In case, he seeks more than one opportunity, this order shall stand recalled under Section 362 CrPC, without any further reference to this Court.

There would be no need for a certified copy of this order, and any Advocate for the Petitioner and State can download this order and other relevant particulars from the official web page of this court and attest it to be a true copy. The concerned officer can also verify its authenticity and may download and use the downloaded copy for immediate use.

Pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

24.11.2022
anju rani

Whether speaking/reasoned: Yes
Whether reportable: No.