

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

CRM-M-878 of 2023

Date of Decision: January 19, 2023

Lajpat Rai

...Petitioner

Versus

Dharam Pal

...Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Abhishek Singla, Advocate for the petitioner.

DEEPAK GUPTA, J.(Oral)

By way of this petition filed under Section 482 Cr.PC., prayer is made to set aside order dated 26.10.2022 (Annexure P.6) passed by learned trial Court/ JMIC, Talwandi Sabo in COMA-414 of 2017 titled as “Dharampal Vs. Lajpat Rai” whereby an application under Section 311 Cr.P.C (Annexure P.4) filed by the petitioner – accused to recall the complainant- respondent for his further cross-examination was dismissed. It is contended that complaint is pending for prosecution under Section 138 of NI Act. During defence evidence, compromise was arrived at between the parties and three different cheques were issued to the complainant and his family members. The matter was settled for ₹9 lacs. On account of compromise, payments of ₹50,000/- and ₹1,50,000/- were made to the respondent on 13.08.2019 and 30.08.2019 respectively whereas payment of ₹5 lacs was made during the year 2020 to the complainant out of the Court, though this was not made part of the record. Respondent- complainant denied having received any such money and, therefore, application under Section 311 Cr.P.C to recall the complainant for cross-examination was moved which has been wrongly dismissed.

Perusal of the impugned order reveals that complainant had concluded his evidence on 13.08.2019. Complainant was already cross-examined. In case compromise has been effected on 13.08.2019 as is alleged. It cannot be assumed that accused was not aware of payment on the date of cross-examination of the complainant. So, complainant cannot be recalled for the purpose of cross-examination. Accused-petitioner was at liberty to produce evidence in defence.

Apart from above, it has rightly been observed by the learned trial Court that though the complainant closed his evidence on 13.08.2019 and the amount on account of compromise was allegedly paid in 2019 or 2020, the application under Section 311 Cr.P.C (Annexure P.4) was moved on 26.07.2022.

Having regard to the circumstance above, it appears that the application was moved just as a ploy to delay the proceedings. There is no substantial illegality or irregularity in the impugned order as passed by learned Magistrate. As such, finding no merit in the present petition, the same is dismissed.

January 19, 2023

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(DEEPAK GUPTA)
JUDGE

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