

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

(235)

CRM-M-3492-2023

Date of Decision: 03.02.2023

M/s Raheja Developers Ltd.

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. A. P.S. Mann, Advocate, for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

Mr. Manish Soni, Advocate, for the respondents.

HARKESH MANUJA, J.(ORAL)

By way of present petition filed under Section 482 Cr.P.C., prayer has been made for setting aside of the order dated 21.12.2022 passed by the Court of Judicial Magistrate 1st Class, Gurugram whereby, the evidence of the petitioner was ordered to be closed, besides, even challenging an order dated 16.01.2023 passed by the Court of Additional Sessions Judge Gurugram, in revision, affirming the order passed by the trial Court.

Brief facts of the case are that a complaint under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter referred to as "the Act") came to be filed at the instance of respondent No.2 against petitioner qua cheque No.739036 dated 25.02.2017, amounting to Rs. 5,00, 21, 239/-, wherein, the petitioner was summoned to face trial vide order dated 01.05.2017. The petitioner was admitted to bail by the trial Court on 29.09.2018 and the notice of acquisition was served upon him on 20.01.2020 to which he did not pled guilty and resultantly, the trial commenced. The

10.06.2022 and thereafter, the matter was listed for recording of evidence of the petitioner for 28.07.2022. The evidence of the petitioner was closed vide order dated 21.12.2022 passed by the Court of JMIC, Gurugram and the said order was affirmed in revision petition by the Court of learned Additional Sessions Judge, Gurugram, vide order dated 16.01.2023. It is the aforesaid two orders which have been impugned by way of present petition.

Learned counsel for the petitioner submits that petitioner has not been afforded adequate and reasonable opportunity so as to conclude its evidence. Considering the facts and circumstances of the present case, he prays for grant of adequate opportunity so as to enable it to prove its defence. Learned counsel further submits that vide order 02.11.2022, in an earlier revision filed at the instance of petitioner for similar relief, the Court of learned Additional Sessions Judgment, Gurugram, granted two effected opportunities to the petitioner so as to conclude the evidence at own responsibility, however, the petitioner remained under the impression that the first date before the trial Court was merely for the purpose of appearance of the parties and for deposit of costs and thereafter two effective opportunities were to be granted by the trial Court at its own discretion however, the trial Court took the date of appearance being the first effective opportunity and thus, the petitioner was not able to conclude its entire evidence in the one effective opportunity left with him and thus, prays for some more time to do the needful.

On the other hand, learned counsel for respondent No.2 vehemently opposed the prayer made in the present petition while submitting that in the present case, the petitioner has been trying to delay the proceedings from the very beginning for one reason or the other. Learned counsel further points out that although the summoning order was passed on 01.05.2017,

however, the petitioner appeared before the trial Court on 04.10.2018 i.e. just before the culmination of proceedings under Section 82 Cr.P.C, against him. He further submits that after service of notice of acquisition upon the petitioner by the trial Court on 24.01.2020 and upon recording of plea of defence at its instance the first date for effecting cross-examination upon respondent-complainant was 12.02.2020, however, the same was completed on 10.06.2022 and that too subject to costs imposed upon the petitioner by the trial Court for having availed repeated opportunities. He also submits that the petitioner has been seeking adjournments by avoiding conclusion of cross-examination of respondent No.2-complainant. Learned counsel again submits that the only purpose of petitioner has been to delay the proceedings so as to avoid the liability.

I have heard learned counsel for the parties and gone through the paper book. From the perusal of records, it is apparent that there has been lack of reasonable diligence on the part of the petitioner while pursuing the complaint filed against it, however, considering the fact that the petitioner being arrayed as an accused needs to be granted reasonable chance to defend its case, the same being part of fair trial which is an invaluable right of the accused, this Court thus, deem it appropriate to afford two effective opportunities to the petitioner so as to conclude its entire evidence.

As per information provided to this Court, the hearing before the trial Court is now fixed for 16.02.2023 which shall be treated to be the first effective opportunity for the petitioner so as to lead its evidence. Considering the facts and circumstances of the present case as having been pointed out at the instance of respondent No.2 as regards the deliberate and conscious attempts by the petitioner for the purpose of delaying the proceedings in the complaint for one reason or the other, the aforesaid order passed in favour of

the petitioner shall however, be subject to payment of Rs. 1 Lakh to be paid to the respondent-complainant only.

Disposed of accordingly.

(HARKESH MANUJA)
JUDGE

03.02.2023
anil

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