

118 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-5192-2023

Date of Decision: February 01, 2023

Avtar Singh

...Petitioner

Versus

The Rampura Phul Primary Co-operative Agricultural
Development Bank Limited

...Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Siddharth Gupta, Advocate for the petitioner.

DEEPAK GUPTA, J.(Oral)

By way of this petition, prayer is made to quash the order dated 16.01.2023 (Annexure P-1) passed by learned Judicial Magistrate 1st Class, Phul, District Bathinda, whereby an application under Section 311 Cr.P.C. has been allowed in a complaint case bearing COMA No.18 of 2018, titled as *“The Rampura Phul Primary Co-operative Agricultural Development Bank Limited vs Avtar Singh”*.

It is revealed that complaint under Section 138 to be read with 142 of the Negotiable Instruments Act, 1881 was filed by the respondent-complainant to prosecute the petitioner-accused by submitting that loan of ₹7,50,000/- was sanctioned to him for fish farming. In partial discharge of liability, a cheque dated 14.12.2017 for ₹10,75,829/- was issued by the accused, which was dishonoured. After making statutory compliances, complaint was filed. After summoning of the accused, complainant-bank produced its evidence during which CW1 Arshdeep Singh, Field Officer was examined. Statement of the accused under Section 313 Cr.P.C. was recorded on 02.12.2022 and the case was adjourned for defence evidence when application under Section 311 Cr.P.C. was moved by the complainant stating therein that loan

application and sanction letter were left to place on record, which are

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necessary for just decision of the case. Accused-petitioner opposed the application but the same has been allowed by learned Trial Court vide impugned order.

It is contended by learned counsel for the petitioner that allowing the documents to be produced in application under Section 311 Cr.P.C., amounts to filling of the lacunae. Specific questions were asked in the cross-examination of CW1 about the loan application and the sanction letter but those documents were not produced by the complainant during its evidence and so at this stage, the application could not be allowed.

After hearing counsel for the petitioner, I find no merit in this petition.

Perusal of the cross-examination of CW1 Arshdeep Singh (Annexure P-5) would reveal that he had admitted the fact that loan application or any document regarding sanction of the loan or the loan agreement were not on judicial file. By making such admission, existence of the loan application or the sanction order was never denied by CW1. It is true that case has reached at the stage of defence evidence but Section 311 Cr.P.C. empowers the Court to admit any evidence for just decision of the case at any stage.

As such, finding no merit in the present petition, the same is hereby dismissed.

February 01, 2023
sarita

(DEEPAK GUPTA)
JUDGE

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