

Amrik Singh Mahi

.....Petitioner

versus

Satwinder Singh

.....Respondent

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present:- Mr. Sarbjit S. Khaira, Advocate
for the petitioner

Sudhir Mittal, J. (Oral)

The petitioner seeks quashing of order dated 01.08.2022 whereby application filed under Section 311 of the Code of Criminal Procedure for summoning the complainant witness for further cross-examination was dismissed.

In a complaint filed under Section 138 of the Negotiable Instruments Act, 1881 the complainant's cross-examination was done on 24.02.2020 where after CW-2 and CW-3 were also cross-examined. The evidence of the complainant was closed on 06.06.2022. Application under Section 311 of the Code of Criminal Procedure was filed on 28.07.2022 and the same was dismissed on the ground that sufficient opportunity for cross-examination had been granted and had been availed. Simply stating that effective cross-examination could not be done is no reason for allowing the application.

Learned counsel for the petitioner submits that on the date the complainant was cross-examined, a new counsel had been engaged who had filed his vakalatnama on the same day and was not well prepared. Thus, one opportunity may be granted to cross-examine the complainant. No further opportunity shall be sought and arguments shall also be concluded on the same

The submission can not be accepted. No counsel could cross-examine a witness unless he was fully prepared. The fact that he filed his vakalatnama on the same day is no evidence of him being not prepared. The submission is, thus, rejected. Adequate opportunity for cross-examination having already been granted, the impugned order does not deserve to be interfered with.

The petition is, accordingly, dismissed.

(SUDHIR MITTAL)
JUDGE

February 14, 2023

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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No