

CRM-M-15463-2023

1

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

113

CRM-M-15463-2023
Date of Decision:12.04.2023.

Bijender Singh and others

.....Petitioners

Versus

M/s Raj Filling Station

..... Respondent

CORAM: *HON'BLE MR. JUSTICE VIKRAM AGGARWAL*

Present: Mr. Vishal Yadav, Advocate
for the petitioners.

VIKRAM AGGARWAL, J. (ORAL)

1. The present petitioners assails the order dated 15.12.2022 (Annexure P-6), passed by the Additional Sessions Judge, vide which the petition filed by the petitioners against the order dated 04.01.2020 (Annexure P-4), passed by the Judicial Magistrate Ist Class, Gurugram, allowing the application filed by respondent-complainant under Section 311 Cr.P.C., was dismissed.
2. A complaint under Section 138 of the Negotiable Instructions Act, 1881 (for short 'the Act'), was filed by the respondent-complainant against the present petitioners with the allegation that a cheque amounting to ₹ 60,00,000/- paid by the petitioners in discharge of their legal liability had been dishonoured. After the cross-examination of the complainant, an application was moved by the complainant under Section 311 Cr.P.C. for examining his own accountant. The said application was allowed by the Judicial Magistrate Ist Class, Gurugram, vide

CRM-M-15463-2023

2

petitioners by filing a revision petition, which came to be dismissed on 15.12.2022 by the Additional Sessions Judge, Gurugram (Annexure P-6).

3. Aggrieved by the said orders, the present petition has been filed.

4. Learned counsel for the petitioners has submitted that both the learned Courts below have gravely erred in allowing the application filed by the complainant under Section 311 Cr.P.C. and dismissing the revision petition filed by the petitioners. It has been submitted that the moving of the application under Section 311 Cr.P.C. was clearly an afterthought and the complainant should have examined his own accountant in his preliminary evidence because once the defence of the accused had been disclosed while cross-examining the complainant, subsequent introduction of witnesses was clearly aimed at filling up the lacunae. It has been submitted that prejudice will be caused to the petitioners by allowing the witness to be examined.

5. I have considered the submissions made by learned counsel for the petitioners. However, I am unable to agree with him.

6. No doubt, the complainant could have and in fact should have examined his own accountant in the preliminary evidence or at least should have disclosed his name in the list of witnesses. However, this in itself would not debar him to move an application at a subsequent stage with a view to arrive at a just decision. Merely because the complainant had been examined would not mean that the defence had been disclosed and thereafter some record could be fabricated and produced in a Court of law. In any case, the petitioners will get appropriate and adequate opportunity to cross-examine the witness to be examined by the complainant and to impeach his credit.

7. I do not, therefore, find any illegality or infirmity in the decision of

CRM-M-15463-2023 3

8. In view of the aforementioned facts and circumstances, I do not find any merit in the present petition and the same is, therefore, dismissed.

April 12th, 2023
Rekha

(VIKRAM AGGARWAL)
JUDGE

Whether speaking/reasoned
Whether reportable

:

Yes/No.
Yes/No.