

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

(265)

CRM-M-14982 of 2023
DATE OF DECISION:-20.04.2023

Raj Kumar Devirana

...Petitioner

vs.

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Tapish Kumar Gupta, Advocate, for the petitioner.

Mr. Amit Shukla, AAG, Punjab.

Mr. Naresh Jain, Advocate, for respondents No.2 and 3.

HARKESH MANUJA, J.

(1) By way of present petition filed under Section 482 Cr.P.C., prayer has been made for quashing of the order dated 15.02.2023 passed by the Court of JMIC, Patiala, whereby, the defence evidence of the petitioner was closed.

(2) On account of dishonour of cheque No.846180 dated 20.01.2017, amounting to Rs.19,06,900/-, a complaint under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter referred to as “the Act”) was filed at the instance of respondent on 01.07.2017 wherein the petitioner was summoned.

(3) Upon recording of statement under Section 313 Cr.P.C. on 20.01.2020, the defence evidence started on 24.01.2020 whereas vide order dated 15.02.2023, the same was closed.

(4) Learned counsel for the petitioner submits that in the present case passing of the impugned order has caused serious prejudice to the rights of the petitioner as he has not been able to examine finger and handwriting

expert namely Inderjit Singh so as to verify the signatures of Akashdeep Garg son of Dev Raj Garg-respondent No.2 on an agreement dated 24.08.2014 which as per the petitioner was very much essential to establish his defence.

(5) On the other hand, learned counsel for the respondents has opposed the prayer made in the present petition while submitting that sufficient opportunity was granted to the petitioner so as to conclude his defence evidence however, despite that the petitioner has not been able to conclude the same.

(6) I have heard learned counsel for the parties and gone through the paper book. I find substance in the submissions made on behalf of the petitioner.

(7) In the present case, petitioner has already produced 5 witnesses in defence. From the paper book, it can be found that even on the last 2 hearings before the trial Court, the petitioner produced 2 witnesses, thus, the present is not a case where, the petitioner has been acting in a negligent manner or is not pursuing his case diligently. It appears that on account of intermittent breaks in the wake of Covid-19 situation, the petitioner was not able to conclude his entire evidence. The limited prayer made by the petitioner is that he wants to examine a finger print and handwriting expert so as to prove signatures of Akashdeep Garg-son of respondent No.2 on an agreement dated 24.08.2014 as a part of his defence. The plea of examination of finger print and handwriting expert cannot be said to be an afterthought in the facts and circumstances of the present case when the petitioner already moved an application in this regard before the trial Court.

Thus, the petitioner deserves to be afforded sufficient opportunity to prove

his defence so as to avoid any kind of prejudice to his rights.

(8) In view of the discussion made hereinabove, the present petition is allowed and impugned order dated 15.02.2023 is set aside. The trial Court is directed to afford one effective opportunity to the petitioner so as to conclude his entire defence evidence at his own responsibility.

(9) Considering the fact that the complaint in the present case is pending since the year 2016, the aforesaid order shall be subject to costs of Rs.25,000/- to be paid to the complainant as a condition precedent.

20.04.2023
anil

(HARKESH MANUJA)
JUDGE

whether speaking/reasoned: Yes/No
whether reportable: Yes/No