

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

Sr. No.116

CRM-M-17043-2023

Date of Decision : April 11, 2023

Kanika Mehra

...Petitioner

Versus

M/s Samridhi Jewellers

...Respondent

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. B.D. Sharma, Advocate, for the petitioner.

SUDHIR MITTAL, J. (ORAL)

The petitioner seeks quashing of order dated 13.02.2023 passed by a Magistrate in a complaint filed under Section 138 of the Negotiable Instruments Act, 1881. Vide the said order, application for recalling the complainant for further cross-examination has been dismissed.

A perusal of the impugned order shows that the application was dismissed on the ground that even though the material sought to be put to the complainant was available with the accused, the same was not put to him at the time his cross-examination was conducted. The accused was given adequate opportunity to cross-examine the complainant and the same was closed by him voluntarily.

Learned counsel for the petitioner submits that a whatsapp chat is available with the accused which shows that the complaint is false. Thus, it is necessary to confront the complainant with the same.

The submission is misconceived. The observation of the trial Magistrate that even though the material with which the complainant is

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sought to be confronted was available with the accused, the same was not done at the time of his cross-examination, has not been impeached. Thus, the trial Magistrate was justified in holding that the provision of Section 311 Cr.P.C. cannot be utilized for filling up lacunae in the evidence. Moreover, the present petition is not maintainable as the impugned order is revisable.

The petition is accordingly dismissed on merits as well as on the ground of maintainability.

April 11, 2023
Ankur

(SUDHIR MITTAL)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	No