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

**CRM-M-16519-2019
Decided on:-07.02.2023**

Jyoti Saini

....Petitioner..

vs.

LIC Housing Finance Ltd.

....Respondent.

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Rajesh Gupta, Advocate and
Ms. Manjula Gupta, Advocate for the petitioner.

Mr. Sukhbir Singh Sawhney, Advocate,
for the respondent.

HARKESH MANUJA J. (Oral)

By way of present petition filed under Section 482 Cr.P.C., prayer has been made for setting aside of order dated 08.01.2019 passed by the court of learned Judicial Magistrate Ist Class, Chandigarh, whereby the defence evidence of the petitioner has been closed by order as well as order dated 20.03.2019 passed by the court of learned Additional Sessions Judge, Chandigarh, affirming the order passed by the trial court.

In the present case, on account of dishonour of cheque bearing No.077839 dated 07.06.2016, a complaint under Section 138 of the Negotiable Instruments Act, 1881 was filed at the instance of respondent against the petitioner, wherein, she was summoned vide order dated 26.08.2016. Having appeared before the trial court on 10.04.2018, the petitioner was granted concession of bail and proceedings were thereafter fixed for recording of evidence of the complainant, which started on

27.04.2018 and concluded on 30.08.2018. The statement of petitioner under Section 313 Cr.P.C. was recorded on 14.09.2018 and thereafter, the matter was fixed for defence evidence but despite having been availed 7 opportunities, the petitioner could not produce any evidence, resulting into passing of order dated 08.01.2019, thereby closing her right to lead defence evidence. The petitioner challenged the same by way of criminal revision petition, which came to be dismissed by learned Additional District Judge, Chandigarh, vide order dated 20.03.2019.

By way of present petition, orders dated 08.01.2019 and 20.03.2019 passed by both the courts below have been impugned herein.

Learned counsel for the petitioner submits that the petitioner being a poor lady has been provided legal assistance by the State Legal Services Authority, Chandigarh. He further submits that the petitioner wanted to produce a handwriting expert so as to put on record the comparison of her alleged signatures on the cheque in question with her specimen signatures and for the said purpose and for incurring necessary expenses, she submitted applications to the State Legal Services Authority, however, the necessary official process in this regard resulted in delay of conclusion of defence evidence. He also submits that in case, two effective opportunities are afforded to the petitioner, she shall conclude her entire evidence. In addition, learned counsel prays for issuance of necessary directions to State Legal Services Authority, Chandigarh to take immediate steps as regards prayer made by the petitioner for release of expenses required for the purpose of engaging some handwriting expert.

On the other hand, learned counsel for the respondent submits

that the delay on the part of the petitioner is wholly intentional as she merely wants to linger on the proceedings, so as to avoid her liability.

I have heard learned counsel for the parties and gone through the record.

A perusal of communications (Annexure P-7 and P-8) between the petitioner and State Legal Services Authority, Chandigarh show that the delay while concluding defence evidence was substantially attributable to the procedural formalities within the office of State Legal Services Authority, which took some time to take a decision upon the request made by the petitioner for seeking production of handwriting expert. Even otherwise, passing of the impugned orders shall cause serious prejudice to the rights of the petitioner as she will not be able to defend herself completely and effectively in the absence of any defence evidence, which would in fact amount to denial of fair trial

In view of the discussion made herein above, the impugned orders dated 08.01.2019 and 20.03.2019 passed by both the courts below are set aside, thereby, granting two effective opportunities to the petitioner, which would be fixed by the trial court as per its own convenience.

In the meanwhile, the State Legal Services Authority, U.T., Chandigarh is requested to take decision on the application(s) made by the petitioner for the purpose of grant of necessary financial assistance for getting a handwriting expert examined at the earliest so that the petitioner is able to avail her chance to defend herself.

Taking into consideration the fact that the cheque in question pertains to the year 2016 and the complaint was filed in August 2016,

followed by summoning order dated 26.08.2016, the trial court is requested to dispose of the proceedings pending before it preferably within a period of 3 months from today.

Disposed of accordingly.

07.02.2023

(HARKESH MANUJA)

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JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/ No