

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-25749 of 2023(O&M)

Date of Decision: 22.05.2023

Ekta Dhingra

...**Petitioner**

Versus

Sanjeev Chugh

...**Respondent**

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

**Present:- Mr. Mohit Kakkar, Advocate
For the petitioner.**

**Mr. Aditya Jain, Advocate and
Mr. Rahul Vohra, Advocate
For the respondent.**

KARAMJIT SINGH, J.

1. The present petition has been filed by the petitioner seeking quashing of order dated 25.04.2023 (Annexure P-5) passed by the Court of Judicial Magistrate Ist Class, Gurugram whereby the defence evidence of the petitioner/ accused has been closed by order in criminal complaint bearing NACT-4732 of 2017, titled Sanjeev Chugh Vs. Ekta Dhingra, under Section 138 of the Negotiable Instruments Act (for brevity, the Act).

2. The counsel for petitioner submits that the aforesaid criminal complaint filed by respondent/ complainant under Section 138 of the Act is totally false complaint and in order to prove his innocence the petitioner gave list of 08 defence witnesses out of which 04 concerned officials of bank are already examined and now remains 04 private witnesses to be examined in defence by the petitioner and their detail is also given in the concerned

application. The counsel for the petitioner further submits that the impugned order (Annexure P-5) was passed in haste by the learned trial Court without affording proper opportunity to the petitioner to lead his defence evidence. So, prayer is made that three effective opportunities be given to the petitioner to conclude his defence evidence.

3. Notice of motion.

4. Mr. Aditya Jain, Advocate and Mr. Rahul Vohra, Advocate accept notice on behalf of respondent complainant and submits that in discharge of his legal liability the petitioner issued cheques in question worth Rs.50,00,000./- each but the same were dishonoured and then legal notice was issued and thereafter criminal complaint under Section 138 of the Act is filed wherein the petitioner has been summoned as accused and respondent/ complainant has concluded his evidence and the petitioner was prolonging the matter unnecessarily by taking dates to conclude his defence evidence and for that purpose petitioner took number of opportunities and finally the learned trial Court passed the impugned order (Annexure P-5) in accordance with law and there is no illegality or perversity in the same. So, prayer is made that present petition be dismissed.

5. I have considered the submissions made by counsel for the parties.

6. Admittedly, when the case was fixed for defence evidence, petitioner filed an application (Annexure P-6) to summon 08 witnesses in his defence, out of which 04 bank officials are already examined but the petitioner intends to examine even 04 other private witnesses whose detail is given in Annexure P-6. The present petition is resisted by the counsel for the

respondent on the ground that petitioner has taken considerable long time to conclude his defence evidence and is unnecessarily prolonging the matter. The petitioner has got legal right to lead evidence in his defence and as per counsel for petitioner the remaining 04 private witnesses are also necessary to be examined for just decision of the case.

7. In light of the above, the present petition is hereby allowed in the interest of justice and the petitioner is given permission to examine 04 other defence witnesses as mentioned in Annexure P-6 and for that purpose two effective opportunities are to be given by the learned trial Court. As the witnesses to be examined are private persons and are known to the petitioner, he should personally produce them in the trial Court for their examination at his own responsibility. The said examination of 04 defence witnesses will be subject to cost of Rs.15000/-, out of which Rs.10,000/- are to be deposited with the District Legal Services Authority, Gurugram and Rs.5000/- are to be paid by the petitioner to the complainant in the trial Court. The present petition is disposed of in the aforesaid terms.

(KARAMJIT SINGH)
JUDGE

22.05.2023
Jiten

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No