IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

(201) **CRM-M-50482-2018**
Date of Decision: 15.02.2023

Master Collection --Petitioner

Versus

Jatinder Kaur --Respondent

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ.

Present:- Ms. Swati Verma, Advocate for the petitioner.

Mr. J.S. Dadwal, Advocate for the respondent.

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RAJESH BHARDWAJ.J (Oral)

The present petition has been filed under Section 482 Cr.P.C praying for quashing of order dated 13.10.2018 passed by learned JMIC, Ludhiana, whereby application for examination and summoning of witness in COMA No.8072/2015 dated 10.11.2015 titled as "Jatinder Kaur Vs. Master Collection" has been dismissed.

Learned counsel for the petitioner submits that the petitioner-firm has been falsely implicated by the complainant-respondent in the complaint filed under Section 138 of Negotiable Instruments Act. She submits that the disputed cheque dated 8.10.2015 was for an amount of Rs.15 lakh which was allegedly dishonored and on account of the same the aforesaid complaint was lodged. It is submitted that though the cheque in question was issued by the petitioner to the complainant but the same was not in discharging of the liability as alleged in the complaint. It is submitted that the cheque was issued in the name of M/s Karan Taxtiles Ltd. with whom petitioner had business dealings. She submits that in order to prove the same petitioner filed an application for summoning the Income Tax official with the relevant record to prove that the cheque was issued to the complainant in a business transaction and not for the discharge of the liability as alleged in the complaint. It is submitted that the examination of the Income Tax official along with the record pertaining to the year 2012 to 2018 is essential for the just decision of the case but the learned Trial Court passed the impugned order closing his defence evidence by order. She submits that the petitioner has every right to lead his defence and examine the witness and produce the relevant record for the just decision of the case but the learned court below has wrongly declined the application filed by the petitioner. She further submits that petitioner may be granted two effective opportunities for leading its evidence and the petitioner-firm would neither misuse the opportunities granted nor it would delay the trial in any way.

Learned counsel for the respondent-complainant has opposed the submissions made by counsel for petitioner and submits that petitioner was granted numerous opportunities for leading defence evidence, however, despite repeated opportunities petitioner did not produce the evidence intentionally and mischievously filed the application only in order to prolong the trial. He further submits that application of the petitioner has been rightly dismissed by the learned Trial Court and there is no illegality in the order passed by it.

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

Apparently, petitioner-firm is being prosecuted in a complaint filed under Section 138 of Negotiable Instruments Act. The complainant has led his evidence, however, application of the petitioner-accused for summoning the I.T. Official along with record was declined and thus the defence evidence was closed by order by the court by passing the impugned order.

Learned counsel for the petitioner has stated that the petitioner may be granted two effective opportunities to conclude its evidence.

Keeping in view the overall facts and circumstances of the case, this court finds that the petitioner-firm should be granted two effective opportunities for leading its evidence by producing the Income Tax Official along with relevant record and the opposite party can be compensated with costs.

In view of the above discussion, this court is of the opinion that the petitioner should be granted two effective opportunities for leading its evidence subject to payment of costs of Rs.25,000/- to the complainant. The Trial Court would ensure that the petitioner in compliance of this order would pay the costs of Rs.25,000/- to the complainant and thereafter only two effective opportunities will be granted to the petitioner to lead its evidence by examining the above said official.

Needless to say that if the petitioner is found to have misused the concession granted by this court, the Trial Court would be at liberty to proceed against the petitioner-firm in accordance with law.

Petition is allowed in the aforesaid terms.

(RAJESH BHARDWAJ)
JUDGE

15.02.2023
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Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No