

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

205

CRM-M-51537-2018 (O&M)

Date of decision: 20.07.2023

Balwinder Singh

...Petitioner

Versus

M/s Goyal Sales Corporation

...Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Vaibhav Sehgal, Advocate for the petitioner.

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

HARNARESH SINGH GILL, J. (ORAL)

Prayer in the petition is for quashing of orders dated 21.10.2016 passed by the learned Judicial Magistrate 1st Class, Khanna, and 08.12.2017 passed by the learned Additional Sessions Judge, Ludhiana, vide which the application filed by the petitioner under Section 145(2) of the Negotiable Instruments Act, 1881, has been dismissed.

Learned counsel for the petitioner submits that vide order dated 13.03.2015, the petitioner was summoned in a complaint under Section 138 of the Negotiable Instruments Act and the petitioner appeared on 15.02.2016 and he was released on bail; that the notice of accusation was served upon the petitioner on 18.03.2016 and the case was adjourned to 11.04.2016; that on 11.04.2016 the petitioner along with his counsel appeared and the case was further adjourned for 10.05.2016 and as on that date, the lawyers were abstaining from work, the case was adjourned for 25.05.2016; that on 25.05.2016, learned counsel for the petitioner made an oral request to move an application and the case was adjourned for 19.07.2016; that the petitioner moved an application under Section 145(2) of the Negotiable Instruments Act

and reply to the same was also filed and that application was declined on the ground that the same has been filed to cause delay.

Learned counsel for the petitioner further submits that learned Judicial Magistrate 1st Class, Khanna, has also discussed that the plea taken by the applicant-accused that the cheque in question was issued as a security cheque can be proved by him at the time of his defence evidence by leading cogent and reliable evidence to that effect, but there is no occasion for the petitioner to cause any delay.

Learned counsel for the respondent, while opposing the arguments made by the learned counsel for the petitioner submits that ample opportunities were granted to the petitioner-accused by the learned Courts below and the application under Section 145(2) of the Negotiable Instruments Act has rightly been dismissed, as the same was filed just to delay the trial.

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

The case of the petitioner is that the petitioner appeared on 15.02.2016, the notice of accusation was served upon him on 18.03.2016 and the case was adjourned to 11.04.2016, the petitioner along with his counsel appeared and the case was further adjourned for 10.05.2016 and as on that date, the lawyers were abstaining from work, the case was adjourned for 25.05.2016 and on that day, learned counsel for the petitioner made an oral request to move an application and the case was adjourned for 19.07.2016 and on that day an application for under Section 145(2) of the Negotiable Instruments Act was moved and reply to the same was also filed.

In view of the above, this Court do not find that the application

for under Section 145(2) of the Negotiable Instruments Act was moved for delaying the trial. The orders dated 21.10.2016 passed by the learned Judicial Magistrate 1st Class, Khanna, and 08.12.2017 passed by the learned Additional Sessions Judge, Ludhiana, are set aside. The application for under Section 145(2) of the Negotiable Instruments Act is allowed.

Learned counsel for the petitioner undertakes that the petitioner will not take any unnecessary adjournment to delay the trial.

The petition is allowed in the aforesaid terms.

20.07.2023

Mangal Singh

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No