

(116) IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-26687-2023

Date of Decision:26.05.2023

Rupinder Kaur

... Petitioner

Vs.

M/s Sahi Ram Jawahar Lal

... Respondent

CORAM : HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present : Mr. Sunny K. Singla, Advocate for the petitioner.

SANDEEP MOUDGIL, J. (Oral)

This petition has been filed under Section 482 of the Code of Criminal Procedure for quashing of impugned order dated 05.05.2023 (Annexure P-5) passed by Judicial Magistrate Ist Class, Malerkotla, in complaint under Section 138 of Negotiable Instruments Act titled as “M/s Sahi Ram Jawahar Lal vs. Rupinder Kaur” bearing No.NACT/627/2017 instituted on 13.10.2017 (Annexure P-1).

Learned counsel for the petitioner has assailed the order dated 05.05.2023 (Annexure P-1) passed by Judicial Magistrate Ist Class, Malerkotla, on the surmise that despite the prayer made for summoning hand-writing expert to be examined by the accused-petitioner, the witness could not be summoned despite due diligence and after depositing of diet money to the said witness. It is settled proposition of law that justice must not only be done but also be seen to be done to reach a conclusion.

The application seeking permission to deposit the diet money has been moved after closing evidence on behalf of the accused and now the case is fixed for evidence in rebuttal of the complainant and four years have lapsed for conclusion of such evidence on the part of the accused. The trial Court is justified

in dismissing the application but the ends of justice would be met if one more opportunity is afforded to the petitioner to examine the hand writing expert.

It is, however, made clear that only one opportunity shall be granted to the petitioner i.e. after the date already fixed before the trial Court and the same shall be used for summoning of such witness on deposit of diet money subject to payment of cost of Rs.5000/- to be paid to the complainant. The trial Court is directed to afford one last opportunity for summoning of such witness beyond the date which is next date of hearing before the trial Court.

In view of the aforesaid observations, the instant petition is disposed of.

26.05.2023
rajeev

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No