

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

119

2023:PHHC:153708

CRM-M-32103-2023

Date of decision: December 1st, 2023

Hem Singh

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Shyam Singh Chhokar, Advocate
for the petitioner.

MANJARI NEHRU KAUL, J.

Petitioner-complainant is impugning the order dated 20.03.2023 (Annexure P-1) passed by learned Judicial Magistrate 1st Class, Jagadhari, whereby his application to recall order dated 06.01.2023 and to summon Charan Singh ASI was dismissed and order dated 01.06.2023 (Annexure P-2) passed by learned Sessions Judge, Yamuna Nagar, whereby revision petition preferred by the petitioner-complainant against the said order was also dismissed.

2. Learned counsel for the petitioner-complainant, *inter alia*, contends that the petitioner-complainant had filed a criminal complaint under Section 138 of the Negotiable Instruments Act (hereinafter referred to as 'N.I. Act'). Subsequently, on 06.01.2023, he was examined, leading to his evidence being closed by the Court below vide the same order.

3. While drawing the attention of this Court to a complaint made before the police on 27.10.2017 which has been annexed as Annexure P-3, it has been submitted that it is a matter of record that prior to the filing of complaint under Section 138 of the N.I. Act, the respondent-accused had moved a complaint to the police, where he had

categorically admitted that he had borrowed a sum of ₹8 lakh from the petitioner-complainant and had also issued cheques to him. Learned counsel has submitted that in the complaint moved before the police, it was alleged by the respondent-accused that the cheques had been obtained from him by the petitioner-complainant forcibly. Upon an inquiry, one police official, ASI Charanjeet Singh had closed the complaint by remarking that the respondent-accused was liable to pay an amount of ₹8 lakh to the petitioner-complainant. In support, learned counsel has placed reliance upon Annexure P-4. It has been still further submitted that the certified copies of the said complaint were obtained by him through RTI but somehow, they could not be placed earlier on record by him as they had been misplaced. It has been submitted that now he wants to examine ASI Charanjeet Singh in the said regard. However, the Court has closed his evidence erroneously vide order dated 06.01.2023. Learned counsel has still further submitted that the petitioner-complainant had also moved an application before the trial Court for recalling of the aforementioned order, which was dismissed on 20.03.2023 and had further been upheld by the Revisional Court vide order dated 01.06.2023. Learned counsel has asserted that the examination of ASI Charanjeet Singh would be necessitated for the just adjudication of his case and, therefore, his application for recalling the order dated 06.01.2023 passed by the trial Court be allowed.

4. I have heard learned counsel for the petitioner and perused the relevant material on record.

5. On a pointed query put to the learned counsel as to how an application seeking recalling of an order under the Code of Criminal Procedure was maintainable, he was unable to satisfy the Court in the

said regard.

6. Even otherwise, on a perusal of the material on record, it stands revealed that the petitioner-complainant was granted as many as 12 effective opportunities including six last opportunities to lead evidence. Furthermore, on 22.12.2022, when no complainant witness was present, learned counsel for the complainant himself suffered a statement seeking one last opportunity to conclude evidence, failing which the evidence be deemed to be closed. Also, on a perusal of the impugned order, it transpires that on one of the dates, an opportunity had been granted to him by the Court for leading evidence, which was subject to payment of costs. However, the said costs were also not paid.

7. In the facts and circumstances as enumerated hereinabove, this Court does not deem it fit to invoke its inherent jurisdiction under Section 482 of the Cr.P.C. as it appears to be a dilatory tactic on the part of petitioner-complainant. The instant petition, therefore, stands dismissed.

8. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

December 1st, 2023

Puneet

**(MANJARI NEHRU KAUL)
JUDGE**

Whether speaking/reasoned : Yes

Whether reportable : No