

2023:PHHC:094756

CRM-M-35686 of 2023
Date of Decision: July 26, 2023

...Petitioner

Present:- Mr. Rahul Bhargava, Advocate for the petitioner.

Petitioner is facing trial in a complaint case bearing No.NACT/3700/2021 titled “Roop Lal Vs. Poonam”, under Section 138 of the NI Act in the Court of learned Judicial Magistrate Ist Class, Amritsar. Her right to cross-examine the complainant has been treated as nil vide impugned order dated 19.05.2023 against which this petition has been filed.

It is contended by learned counsel for the petitioner that the petitioner was sick on 19.05.2023 and he had moved an application for exemption which was even allowed by the Court but the Court hurriedly closed his evidence. Learned counsel further requests to grant only one opportunity and that he is ready to bear the costs for the purpose of cross-examination of the complainant.

A bare perusal of the zimni orders as placed on record by learned counsel for the petitioner, reveals that petitioner availed effective opportunities to cross-examine the complainant on 26.09.2022, 23.11.2022, 19.12.2022 and then on 19.05.2023 but failed to do so.

Be that as it may. Keeping in view the facts and circumstances of the case and the fact that the defence of the accused-petitioner is not prejudiced, this petition is accepted by granting one opportunity to the petitioner to cross-examine the complainant on the next date of hearing to be fixed by the trial Court. It is informed that next date of hearing before the trial Court is 31.07.2023. Learned trial Court shall permit the petitioner/defence counsel to cross-examine the complainant on that date and if for any reason, complainant is not available on that date, then shall fix a date for that purpose.

However, it is subject to the condition that petitioner shall pay cost of ₹20,000/- to the complainant by way of demand draft. In case, said cost is not paid, then this order will have no effect.

This petition is being disposed of without serving any notice to the respondent to avoid delay. In case, complainant has any grievance, he can approach this Court.

July 26, 2023

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(DEEPAK GUPTA)

JUDGE

Whether reasoned/speaking: Yes/No

Whether reportable: Yes/No