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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****CRM-M-37234-2023 (O&M)****DATE OF DECISION: 01.08.2023****Panipat Hire Purchase & Leasing Pvt. Ltd.****...Petitioner****Versus****Navneet Bansal****...Respondent****CORAM : HON'BLE MR. JUSTICE ARUN MONGA**

Present : Mr. Pawan Kumar Hooda, Advocate,
For the petitioner.

ARUN MONGA, J. (ORAL)

Petitioner, a company incorporated under the Companies Act, 1956 through its Director, seeks quashing of impugned order dated 14.07.2023 (Annexure P-3), passed by learned Judicial Magistrate First Class, Chandigarh, in a complaint case under Section 138 of the Negotiable Instruments Act, 1881 (referred to as the 'NI Act'), bearing NACT No.10920 of 2017, whereby application moved by the accused-respondent herein seeking permission to examine expert witnesses to scrutinize computer/data lying in the computer of complainant-company as additional evidence, was partly allowed.

2. Succinct facts first, as pleaded in the instant petition.

2.1 Petitioner-company extended loan of Rs.3 lakh to respondent along with interest @ 3% per month. A pronote-cum-receipt was also executed in this regard. Respondent failed to pay even the interest amount. In order to discharge his liability, respondent issued cheque bearing No.282665 dated 17.08.2017 amounting to Rs.3,99,000/- which on presentation was dishonoured for Insufficient Funds. Legal notice was also sent to respondent but he failed to repay the loan amount. Complaint under NI Act was filed.

3. Learned counsel for the petitioner contends that application (Annexure P-2) for leading additional evidence was filed by the respondent just

to delay the trial and to fill up the lacunae left by him during the cross-examination of complainant and its witnesses. Respondent himself admitted the execution of pronote-cum-receipt and his signatures on the cheque in question. However, learned trial Court while partly allowing the application, has failed to appreciate the fact that the list of witnesses and/or evidence given by respondent-accused is not even relevant to the complaint under Section 138 of NI. Act and witnesses No.2, 3, 4 and 6 in the application (Annexure P-2) were allowed to be summoned vide impugned order dated 14.07.2023 (Annexure P-3).

3.1. Learned counsel for petitioner would further argue that the impugned order is not sustainable and liable to be set aside as the accused-respondent had full opportunity to ask the questions in the cross-examination of complainant-petitioner.

4. Given the nature of order being passed, there is no necessity to issue notice to respondent, as no serious prejudice would be caused to him. Notice to respondent is thus dispensed with.

5. Having heard learned counsel for petitioner and also seeing the list of witnesses (Annexure P-2) vis-à-vis the contents of complaint as well as defence taken by the accused-respondent, prima-facie, though it appears that there was not much of relevancy, as is also contended by learned counsel for petitioner, however, in order to obviate any possibility of respondent being denied fair opportunity *qua* defence he has been advised to take, instant petition is disposed of with a direction to the respondent to produce the witnesses, as per list of witnesses (Annexure P-2).

6. It is made clear that onus of bringing those witnesses shall entirely be upon the respondent and not more than two opportunities be given for doing the needful. In case he fails to bring the witnesses as per Annexure P-2, no further opportunity shall be granted and the defence evidence shall be closed by order of Court.

- 7. Disposed of, accordingly.
- 8. Pending application(s), if any, shall also stand disposed of.
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AUGUST 01, 2023
Shalini

(ARUN MONGA)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No