

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

CRM-M-37419-2019

Date of Decision:25.04.2023

SUMIT NAYYAR

.... Petitioner

Versus

THE NAKODAR HINDU URBAN COOPERATIVE BANK LTD.

... Respondent

CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present:- Mr. Manbir Singh, Advocate
for Mr. Tushar Sharma, Advocate
for the petitioner.

Ms. Jyoti Sareen, Advocate
for respondent.

VIKRAM AGGARWAL, J. (ORAL)

The present petition has been preferred under Section 482 of the Code of Criminal Procedure Code (in short Cr.P.C.) for quashing the order dated 07th August 2019 (Annexure P-2) passed by the Sub-Divisional Judicial Magistrate, Nakodar vide which the request made by the petitioners (accused in that case) that CW-1 Prem Nath, CEO of the respondent-complainant be asked to produce the record pertaining to the loan account of the petitioner and his guarantor Sachin Nayyar was declined on the ground that it was not relevant regarding the complaint in dispute.

2. The facts, briefly put, are that the respondent-complainant instituted a complaint against the present petitioner under Section 138 of the Negotiable Instruments Act (hereinafter referred to as the Act) read with Section 420 IPC on account of a cheque of Rs.41 lacs having been dishonoured. The petitioner was summoned after preliminary evidence having been led and after notice of accusation having been served. While the evidence of CW-1 Prem Nath was going on, a request, as referred to above was made by counsel representing the petitioner.

Since the request was declined, the present petition was preferred challenging the

decision.

3. I have heard learned counsel for the parties and have perused the paper-book.

4. Learned counsel for the petitioner has submitted that the trial Court erred in declining the request made by the petitioner. It has been contended that the record sought to be produced was important for the just decision of the case and that there was no occasion for the trial Court to decline the said request.

5. On the other hand, learned counsel representing the respondent has submitted that there was no illegality in the impugned order. It has been pointed out that during the cross-examination of CW-1, the account statements of the petitioner and Sachin Nayyar were produced on record as Exhibit D-2 and D-3. It has been submitted that even otherwise, the request being made by the counsel for the petitioner was not reasonable as the accounts being sought to be produced were not relevant to the dispute.

6. I have considered the submissions made by the learned counsel for the parties.

7. The respondent i.e. The Nakodar Hindu Urban Co-operative Bank Ltd. instituted a complaint under Section 138 of the Act read with Section 420 IPC alleging that a cheque bearing No.000005 dated 23rd June 2017 for a sum of Rs.41 lacs which had been paid by the petitioner in discharge of his legal liability towards the respondent-complainant had been dishonoured. Apparently, after the preliminary evidence, the petitioner was summoned and notice of accusation was served. Thereafter, in the evidence, CW-1 Prem Nath, CEO of the respondent was examined. He tendered his affidavit Exhibit CW-1/A in his examination-in-chief and while he was being cross-examined, he was asked a question with regard to one Sachin Nayyar who was the guarantor of the present petitioner and on a question having been asked he stated that no litigation had been started against Sachin Nayyar and volunteered that since he had regularized the account, no litigation was started. He then stated that he could produce the statement of

account of Sachin Nayyar. The counsel representing the petitioner then requested the Court that the witness be directed to produce the statement on account of Sachin Nayyar. The request was declined and cross-examination continued. A request was again made that the witness be directed to produce the record pertaining to the account of the present petitioner and Sachin Nayyar as both were guarantors to each other. However, this request was also declined stating that it was not relevant to the complaint in dispute. In the considered opinion of this Court, no illegality was committed by the trial Court in declining the request as the matter was with regard to dishonour of the cheque issued by the petitioner Sumit Nayyar and, therefore, the statement account of his guarantor Sachin Nayyar or even his own statement account would not be relevant at that stage. The effort seemed to be to delay the matter as such accounts could always have been summoned by the petitioner in his defence evidence if so required. In any case, as observed by the trial Court the said records did not seem to be relevant at that stage. I do not find any reason to exercise jurisdiction under Section 482 of the Code of Criminal Procedure to interfere in the order passed by the trial Court as the same does not suffer from any illegality.

8. In view of the aforementioned fact and circumstances, I do not find any merit in the present petition and the same is accordingly dismissed.

(VIKRAM AGGARWAL)
JUDGE

25.04.2023

M.Sikka

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