

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr.No.207(2 cases)

Case No. : CRM-M-51902-2021

Date of Decision : February 06, 2023

Dev Raj		Petitioner
	vs.	
Balwinder Kaur		Respondent

Case No. : CRM-M-51933-2021

Date of Decision : February 06, 2023

Dev Raj		Petitioner
	vs.	
Balwinder Kaur		Respondent

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

* * *

Present : Mr. Vijay Lath, Advocate
and Mr. Naveen Sharma, Advocate
for the petitioner (in both cases).

Mr. Paramjeet Singh Sullar, Advocate
for the respondent (in both cases).

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GURBIR SINGH, J. :

Vide this common order, two petitions i.e. **CRM-M-51902-2021** and **CRM-M-51933-2021**, shall be disposed of as the issue involved, and also the impugned order passed in both the petitions, are the same and both these petitions are between the same parties.

These are two petitions under Section 482 Cr.P.C., arising out

of two separate complaints filed by the petitioner against the respondent under Section 138 of the Negotiable Instruments Act, filed with a prayer to set aside the impugned order dated 01.11.2019, passed by learned Judicial Magistrate Ist Class, Jalandhar, vide which application filed by the accused, under Section 311 Cr.P.C., for examining the material evidence has been dismissed.

Learned counsel for the petitioner submits that the case was pending for defence evidence. The petitioner wanted to prove and produce the certified copies of documents annexed in case titled as *Jit Singh vs. Sansar Singh and others* pending in the Court of learned Judicial Magistrate Ist Class, Jalandhar regarding the ownership of the complainant and with regard to the same property, the petitioner also wanted to prove and produce certified copies of the registered documents i.e. sale deeds with regard to the same property. The learned Trial Court, without considering that the said documents were necessary for just decision of the case, dismissed the application on the ground that if the plea of the petitioner is accepted, then every party would claim at the fag end of the case that one or the other witness was left and it would open flood gates of evidence and disposal of case would bound to suffer.

Learned counsel for the respondent has submitted that photocopy of the plaint, written statement and judgment of a Court are treated as public documents and no further proof is necessary for proving such documents. In support of his contentions, he has relied upon a judgment dated 15.12.2010, passed by a Co-ordinate Bench of this Court in

case Pyare Lal vs. Meher Singh and others – Law Finder Doc #251937

and has submitted that after availing so many opportunities, the petitioner has moved an application for examining material evidence, with only purpose to delay the disposal of the case.

Heard.

The case is at the fag end. The petitioner has closed his defence evidence but he wanted to tender documentary evidence. The learned Trial Court, while dismissing the application, has also held that the documentary evidence of the accused was not closed, so, certified copies of documents could be placed on record by the accused. The application is annexed herewith as Annexure P-5. Para 5 and 6 of the application reads as under :-

- “5. That now at this stage, the applicant wants to prove and produce the certified copies of documents annexed in the case titled as Jit Singh Vs. Sansar Singh and others pending in the Court of Sh. Mayank Marwaha, JMIC, Jalandhar regarding the ownership of the complainant and with regard to the same property. The applicant also wants to prove and produce the certified copies of the registered documents that are sale deeds with regard to same property.*
- 6. That the applicant/accused wants only one effective date for the examination of the witnesses that these are the officials witnesses which are required to be examined with official record.”*

Since case is at the fag end and the petitioner wants to prove certain copies of the documents annexed with the other case and certified copies of the registered documents, if one opportunity is given to the petitioner to produce the entire additional evidence at his own responsibility, then no prejudice would be caused to the other party, which would definitely be given opportunity to cross-examine the witness. Additional evidence can be led at any stage of trial prior to pronouncement of judgment.

In view of what has been discussed above, both the present petitions i.e. CRM-M-51902-2021 and CRM-M-51933-2021 are allowed and the impugned order dated 01.11.2019, passed by learned Judicial Magistrate Ist Class, Jalandhar, vide which application filed by the accused, under Section 311 Cr.P.C., for examining the material evidence has been dismissed, is set aside.

The petitioner is directed to produce the entire evidence, as mentioned in the application in the Trial Court, on 14.03.2023 at his own responsibility and shall tender the documents and examine the witness on the same day, subject to payment of Rs.5,000/- as costs in each case, to be paid to the complainant-respondent.

It is further made clear that if, for any reason, the Trial Court is unable to record the complete evidence on 14.03.2023, then case would be posted for 15.03.2023 and no further opportunity shall be granted for this purpose. If the petitioner so desires, then *dasti* summons be given and no other assistance shall be provided by the Trial Court for summoning the

witnesses.

A photocopy of this judgment be placed on the file of other connected matter.

February 06, 2023

monika

(GURBIR SINGH)

JUDGE

<i>Whether speaking/reasoned ?</i>	<i>Yes/No.</i>
<i>Whether reportable ?</i>	<i>Yes/No.</i>