

CRM-M-57963-2023 (O&M), CRM-M-58002-2023 (O&M),
CRM-M-58007-2023 (O&M) AND CRM-M-58039-2023 (O&M)

120 (4 cases)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of decision: November 17, 2023

1. CRM-M-57963-2023 (O&M)

Ishwar Das Garg

....Petitioner

versus

Punjab National Bank

....Respondent

2. CRM-M-58002-2023 (O&M)

Ishwar Das Garg

....Petitioner

versus

Punjab National Bank

....Respondent

3. CRM-M-58007-2023 (O&M)

Ishwar Das Garg

....Petitioner

versus

Punjab National Bank

....Respondent

4. CRM-M-58039-2023 (O&M)

Ishwar Das Garg

....Petitioner

versus

Punjab National Bank

....Respondent

CORAM: HON’BLE MR. JUSTICE RAJBIR SEHRAWAT

Present:- Mr. Sandeep Singh, Advocate for petitioner(s).

Mr. Gaurav Goel, Standing Counsel for the respondent-Bank.

RAJBIR SEHRAWAT, J. (ORAL)

Vide this common order and judgment, above-mentioned four cases are being disposed of since facts are analogues and issues raised therein are common. For brevity, recitals are taken from CRM-M-57963-2023.

2. These petitions under Section 482 of the Code of Criminal Procedure have been filed for quashing and setting aside of impugned order(s) dated 13.10.2023

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(Annexure P-5) passed by the Additional District Judge, Ludhiana in separate revisions, i.e., CRR No.1030 of 2023, CRR No.1033 of 2023, CRR No.1031 of 2023, and CRR No.1034 of 2023, whereby the revision petitions directed against the order dated 29.09.2023, passed by the trial court in COMA 3015 of 2015, COMA 3014 of 2015, COMA 3012 of 2015 and COMA 3016 of 2015, have been dismissed *in-limini*.

3. The facts, as are available on record, are that the petitioner is facing trial for an offence punishable under Section 138 of the Negotiable Instruments Act. In the said complaint, the complainant had examined himself at the stage of summoning. Thereafter, the petitioner was summoned and trial court proceeded further with the trial. After the charge was framed against the petitioner, the complainant produced another witness, who happens to be the bank official, to produce the bank record in support of the assertions made in the complaint. At that stage the petitioner had moved an application for rejection and de-exhibiting the evidence of the said witness, Mr. Mandeep Singh, Senior Manager (CW-2), on the ground that the complainant had not moved any application for leading of additional evidence. That application was dismissed by the trial court. The petitioner preferred criminal revisions, i.e., CRR No.1030 of 2023, CRR No.1033 of 2023, CRR No.1031 of 2023, and CRR No.1034 of 2023 before the revisional court. However, even the said revision petitions have been dismissed as non-maintainable on the ground that the order passed by the trial court was interlocutory in nature. Hence, the present petition has been filed.

4. Arguing the case, the learned counsel for the petitioner has submitted that the order passed by the trial court is not interlocutory in nature, rather, it decides the substantive right of the petitioner-accused in so far as the complainant has been permitted to fill up the *lacunae*, which had come up in the case; on account of the evidence of complainant-CW-1. Moreover, no application for additional evidence was moved for introduction of CW-2-Bank official. Hence the court has conferred substantial benefit upon the complainant. Therefore, the order passed by the trial court

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is not interlocutory. The revision petitions were very much maintainable. Hence, the trial court, as well as, the revisional court, both have gone wrong in law in permitting the examination of CW-2-Mr. Mandeep Singh, Senior Manager of the Bank and exhibition of the documents produced by him before the court, as well as, in dismissing the revision petitions filed by the petitioner.

5. Having heard the counsel for the petitioner and having perused the case file, this court does not find any substance in the arguments raised by the counsel for the petitioner. The very first fact which need to be noticed here is; that in the list of witness, attached with the complaint, the complainant has duly mentioned one of the witnesses as, “concerned clerks/officials of Punjab National Bank along with relevant records”. The CW-2, is only official of the Punjab National Bank and thus; is not being introduced beyond the list of witnesses furnished by the complainant along with the complaint. He is the person who is very much mentioned in the list of witnesses. Although, the said witness might not have been examined at the summoning stage, however, it is not necessary that the complainant should examine all the witnesses mentioned in the list of witnesses even at the stage of summoning. At that stage, he can take risk by examining only himself or any other witness he deems fit; for the purpose of summoning of the accused mentioned in the complaint. If on the basis of the examination of the complainant only; the court finds material to proceed further in the complaint, then there is no illegality or impropriety in the course of action adopted by the trial court. However, once the accused is summoned, then the complainant is fully entitled to examine all the witnesses mentioned in the list of witnesses, despite the fact that he might not have examined the other witnesses at the stage of summoning. In such a situation, if the witness already mentioned in the list of witnesses is permitted by the court to be examined or is permitted to bring on record the official records, then that cannot be branded as additional evidence. Therefore, not even permission from the court is required by the complainant to examine such a

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witness. In such a situation, even the plea of filling up of the alleged *lacunae* as perceived by the accused; only by reading the statement of the complainant, made after framing of charge, is insignificant; for the reason that the evidence of the complainant is not complete as yet, rather the same is continuing after framing of the charge and he is entitled to examine all the witnesses mentioned in the list of witnesses after framing of charge.

6. Although, as mentioned above, complainant was fully entitled to examine the witness mentioned in the list of witnesses after framing of charge, still the petitioner had moved an application for scrapping of the evidence of CW-2 and for de-exhibition of the documents brought on record in the evidence of CW-2. If such an application had been dismissed by the trial court, in that situation the order passed by the trial court is nothing but a purely interlocutory order; not impinging upon any right of the petitioner. Any grievance of the petitioner in that regard or *qua* filling up of the alleged *lacunae*; is only a misconceived perception. Accordingly, even the revisional court has not committed any illegality and impropriety in dismissing the revision petitions as not maintainable.

7. In view of the above, finding no merit in the present petitions the same are dismissed.

(RAJBIR SEHRAWAT)
JUDGE

November 17, 2023
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No