

128 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Neutral Citation No. 2023:PHHC:156964
CRM-M-61443-2023
Date of Decision: December 07, 2023

Jagroop Singh and another ...Petitioners

Versus

Axis Bank Ltd. ...Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Sukhmeet Singh, Advocate for the petitioners.

DEEPAK GUPTA, J.(Oral)

By way of this petition under Section 482 Cr.P.C., prayer is made to quash the order dated 12.12.2022 (Annexure P-2), whereby cross-examination of the respondent was directed to be treated as nil; and subsequent order dated 16.08.2023 (Annexure P-5) passed by learned Judicial Magistrate 1st Class, Ludhiana, in complaint case bearing COMA No.10386 of 2017, under Section 138 of the Negotiable Instruments Act, 1881, titled as “*Axis Bank Ltd. v. Jagroop Singh and another*”, registered at Police Station Dugri, District Ludhiana, whereby application under Section 311 Cr.P.C. filed by the petitioners was dismissed.

2. Learned counsel for the petitioners contends that the earlier counsel engaged by the petitioners-accused could not conduct the cross-examination of CW1-complainant in criminal complaint bearing COMA No.10386 of 2017, pending in the Court of learned Judicial Magistrate 1st Class, Ludhiana and that vide impugned order dated 12.12.2022 (Annexure P-2), learned Trial Court directed to treat the cross-examination of the complainant as nil. Learned counsel contends that an application under Section 311 Cr.P.C. was moved stating therein the circumstances under which the cross-examination of CW1 was not

concluded and for granting one opportunity to cross-examine the complainant, but that application has been dismissed vide order dated 16.08.2023 (Annexure P-5). Learned counsel has prayed for granting one opportunity, so as to conduct the cross-examination of the complainant.

3. A perusal of the order dated 16.08.2023 (Annexure P-5) would reveal that as many as 08 effective opportunities were availed by the petitioners-accused, so as to conduct the cross-examination of the complainant-respondent. As the petitioners failed to do the same, it was under these compelled circumstances that Court was forced to order for treating the cross-examination of the complainant as nil.

4. Although, in the aforesaid circumstances, there is no justification for granting one more opportunity, but having regard to the circumstances narrated by the petitioners to the effect that the earlier counsel engaged by them was not conducting the cross-examination and that the petitioners were not aware about the same, due to which they had to change the counsel, one more opportunity is provided to the petitioners to conduct cross-examination of the complainant. However, it is subject to the following conditions:-

- (i) Petitioners have to pay cost of ₹25,000/- by way of demand draft in favour of the respondent-complainant.
- (ii) Petitioners will be provided only one opportunity, so as to conduct the cross-examination of CW1 on the date to be fixed by the Trial Court concerned. In case, petitioners fail to do so on the date as fixed by the Trial Court, no further opportunity shall be provided.

5. The Trial Court is directed to fix a date for conducting the cross-examination of CW1-complainant. The cross-examination of CW1 will be allowed only after paying the demand draft of ₹25,000/- by the petitioners to the complainant-respondent.

6. Since the present order has been passed without issuing any notice to the respondent, so as to avoid unnecessary delay, therefore, respondent will be at liberty to approach this Court, in case it feels aggrieved by this order.

Disposed of.

December 07, 2023
sarita

(DEEPAK GUPTA)
JUDGE

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