

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

CRM-M No. 2933 of 2024 (O&M)

Date of Decision: 29.01.2024

Vijay Singh

..... Petitioner

Versus

Jugal Kishore

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Ajay Pal Singh, Advocate,
for the petitioner.

Mr. Ashok Kumar Khunger, Advocate
for the respondent.

HARKESH MANUJA, J. (ORAL)

The petitioner, by way of present petition filed under Section 482 Cr.P.C., seeks setting aside of the order dated 13.09.2023 (**Annexure P-6**) passed by learned Judicial Magistrate Ist Class, Abohar, whereby an application, filed by him invoking Section 311 Cr.P.C., stands declined.

[2] In the present case, on account of dishonour of cheque No. 00019 dated 28.05.2018 drawn on Bank of Baroda, Abohar, the respondent-complainant invoked Section 138 of Negotiable Instruments Act, 1881, wherein the petitioner was summoned. During trial, one Sunil Nagori being General Power of Attorney Holder of the proprietor of respondent-complainant / firm, appeared as CW-3, who was cross-examined at length by the petitioner. Even thereafter, an application under Section 311 Cr.P.C. was filed at the instance of petitioner seeking further examination of CW-3 (Sunil Nagori) which was granted by the trial Court and in pursuance

thereof, further cross-examination was conducted on 12.01.2023. Later, on 17.01.2023 statement of the petitioner was recorded under Section 313 Cr.P.C. and thereafter in defence the petitioner examined one Chander Mohan, Daftri of Bank of Baroda, Abohar as DW-1.

Upon conclusion of examination of DW-1 (Chander Mohan), another application came to be filed at the instance of petitioner while invoking Section 311 Cr.P.C., seeking permission for further examination of Sunil Nagori (CW-3) on the aspect of withdrawal of a sum of Rs. 5 lakhs from his account in pursuance of Cheque No. 000022 dated 24.05.2017. The aforesaid application was opposed at the instance of respondent. The trial Court vide order dated 13.09.2023 (**P-6**) declined the prayer made on behalf of the petitioner, while recording that the same was merely an exercise to delay the proceedings.

[3] Impugning the aforesaid order dated 13.09.2023 (**P-6**), learned counsel for the petitioner submits that the sum of Rs. 5 lakhs was withdrawn by the complainant-respondent himself through one Prem Kumar from the account of the petitioner vide Cheque No. 000022 dated 24.05.2017 and thus, this fact was very much necessary to be put to the witness appearing on behalf of the complainant – respondent so as to extract the relevant explanation in this regard.

[4] On the other hand learned counsel representing the respondent submits that Chander Mohan (DW-1), Daftri, who appeared on behalf of the petitioner himself admitted in the cross-examination that the aforesaid Prem Kumar, who withdrew the sum of Rs. 5 lakhs against a self-drawn cheque from the account of petitioner vide Cheque No. 000022 dated 24.05.2017,

was not at all related with the complainant-firm and thus, the application in hand was merely a delaying tactics.

[5] After hearing learned counsel for the parties and going through the paper-book / records, I am unable to find substance in the submissions made on behalf of the petitioner.

[6] From the records, it can be discerned that Cheque No. 000022 dated 24.05.2017 (**Annexure P-3**) was a self-drawn cheque under the signature of petitioner, whereupon the amount was withdrawn from the account of the petitioner by one Prem Kumar, which cannot be even *prima facie* connected with the complainant–firm. The factum of withdrawal of Rs. 5 lakhs through cheque dated 24.05.2017 from the account of the petitioner was well within his knowledge right from the inception of the proceedings, and thus, the same, if at all necessary, was required to be put forth to the witness appearing on behalf of respondent–complainant at an appropriate stage while he appeared as CW-3 and even was cross-examined twice.

[7] In view of the above, further cross-examination of CW-3 (Sunil Nagori) for the purposes of putting forth the withdrawal of Rs. 5 lakhs through a self drawn Cheque No. 000022 dated 24.05.2017 by one Prem Kumar under the admitted signatures of petitioner, would not be relevant for adjudication of the complaint.

[8] Resultantly, finding no merit in the present petition, the same is hereby **dismissed**.

January 29, 2024

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**(HARKESH MANUJA)
JUDGE**

<i>Whether Speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>