

CORAM:- HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr.Ashok Khubber, Advocate
for the petitioner(s)
Mr.Kshitij Sharma, Advocate for the respondent.

Kuldeep Tiwari, J. (Oral)**[CRM-48566-2023](#)**

For the reasons mentioned therein, application is allowed subject to all just exceptions and the zimni orders are taken on record.

Main petitions

By this common order, this Court is disposing of all the aforesaid six petitions, as they are arising out of the same order. For brevity, the facts have been taken from the petition bearing **[CRM-M-3448-2023](#)**.

2. Through the instant petition, the petitioner who is facing trial in a criminal complaint instituted under Section 138 of the Negotiable Instruments Act, has challenged the order, whereby, the application for leading additional evidence by the complainant was allowed, which in fact, is grievance of the petitioner and therefore, he filed the instant motion under Section 482 Cr.P.C. for seeking above referred relief.

3. Learned counsel for the respondents who caused appearance upon notice, at the very outset, states that the application which was preferred by the learned counsel for the complainant was inadvertently mentioned for leading additional evidence, whereas, this application was filed prior to the institution of the complaint-evidence itself, and therefore, the complainant could have led evidence which is sought to be led as additional evidence as complainant's evidence that too on his turn. He further submits that the

process of leading evidence and the petitioner's counsel has already conducted the cross-examination of the witnesses. Therefore, purpose of filing this application is already served as the evidence has already been led by the complainant during the stage of complaint-evidence, therefore, he may be directed to withdraw the present application filed under Section 311 Cr.PC. before the trial court as it has in fact rendered infructuous. Therefore, he relies upon the zimni orders which have been placed on record through misc. application bearing [CRM-48566-2023](#).

4. This Court has also examined the zimni orders which clearly gives strength to the claim of the learned counsel for the respondent, since bona fide locus has been prayed by the learned counsel for the respondent, which is not opposed by learned counsel for the petitioner. Therefore, the application which has been preferred by the respondent-complainant, under Section 311 Cr.P.C. before the Magistrate concerned, is hereby, ordered to be dismissed as withdrawn, and the complainant is at liberty to lead evidence during on his turn of evidence.

5. In view of the above, all the aforesaid petitions are ordered to be **dismissed** as having **rendered infructuous**. Therefore, application for leading additional evidence i.e. Annexure P-4 and P-5 is hereby allowed to be dismissed as withdrawn.

15.04.2024
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(KULDEEP TIWARI)
JUDGE

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