

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

CRR No.499 of 2024

Shahdaab Ansari @ Mohd Shahdaab Ansari & Anr

.....Petitioners

Versus

Hari Chand and Anr

.....Respondents

Date of Decision: 12.03.2024

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Arav Gupta, Advocate for the petitioners.

SUDEEPTI SHARMA, J

By way of filing present petition, the petitioners have impugned order dated 06.01.2024 passed by learned JMIC, Hodal whereby defence evidence of the petitioner has been closed by court order.

It is stated that the complainant-respondent No.1 had given friendly loan of Rs.10 lacs to the petitioners in the month of November, 2015 for business purpose, which was to be returned by November 2016. It is pleaded that in discharge of his liability, petitioner No.1 issued two cheques bearing No.185491 dated 15.03.2017 for a sum of Rs.5,00,000/- and No.000154 dated 30.04.2017 for Rs.5,00,000/- in favour of the complainant. Upon the aforesaid cheques having been dishonoured for the reason “insufficient funds”, complainant-respondent No.1 had instituted a complaint under Section 138 of the Negotiable Instruments Act against the petitioners. In the complaint, all the witnesses of the complainant-respondent No.1 were examined with statement of petitioner No.1-accused having been recorded under Section 313 Cr.P.C on 06.05.2023. It is further stated that in order to prove his case, petitioners filed an application under Section 315 Cr.P.C seeking permission to examine himself (petitioner No.1) as his own witness. Though the said application was heard on 06.01.2024

and was allowed by learned trial Court subject to payment of Rs.1000/- as costs. Vide the said order, learned trial Court ordered to take up the matter after lunch for evidence of the accused. After lunch, an adjournment was sought on behalf of the petitioners-accused on medical ground, which was declined and defence evidence of the petitioner was closed by the court vide the impugned order.

Learned counsel for the petitioner contends that the petitioner No.1 had suffered a bullet injury in his right lower abdomen, which caused great discomfort and severe pain to him. The bullet is still in his body. In the post lunch session, the petitioner No.1 was very much present in the Court but he could not tender evidence because of his ill health, thus his defence evidence was closed vide the impugned order. He prays for grant of one opportunity to lead his defence evidence.

Having heard learned counsel for the petitioners and after going through the case file, this Court is of the view that the petitioners should be granted one opportunity in his defence for establishing his case.

Without opining on the merits of the case and in the interest of justice, present petition is allowed. Order dated 06.01.2024 is set aside and one opportunity is granted to the petitioners to lead defence evidence subject to their depositing a sum of Rs.10,000/- as costs with the Poor Patient Welfare Fund, PGIMS, Chandigarh. The petitioners are directed to appear before the learned trial Court concerned on 22.03.2024.

March 12, 2024
manoj

(SUDEEPTI SHARMA)
JUDGE

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No