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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRR No.389 of 2024
Date of Decision: 17.07.2024

Tarsem Singh

... Petitioner

Versus

Allahabad Bank

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Sandeep Kumar Yadav, Advocate,
for the petitioner.

MANISHA BATRA, J. (Oral)

1. The present petition has been filed by the petitioner under Section 399 of Cr.P.C. challenging the order dated 09.02.2024 passed by the Court of Judicial Magistrate, Kapurthala in Criminal Complaint bearing CIS No.NACT-405-2018 titled as *Allahabad Bank v. Tarsem Singh* whereby an application as filed by the present petitioner who is accused in the aforementioned complaint for granting him permission to produce certain documents had been dismissed.

2. Brief facts of the case as pleaded in the present petition are that the petitioner along with his brothers had availed agricultural loan to the tune of Rs.15 lacs from the respondent-Bank in the year 2009. As a security, he along with his brothers had mortgaged their land and had

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executed a mortgage deed on 07.12.2009. Subsequently, they also obtained crop loan limit in the shape of Kisan Cash Card Limit to the tune of Rs.48,00,000/- on 27.07.2012 and had again mortgaged their land as a security with the respondent. As per the allegations, at the time of providing agricultural loan, the respondent-Bank had procured signatures of the petitioner and his brothers on some blank cheques by way of security and subsequently those cheques were used in the loan taken as crop loan. Those cheques were dishonoured and the respondent-Bank has filed the aforementioned complaint against the petitioner which is pending before the Court of Judicial Magistrate.

3. It is submitted that during the pendency of the complaint, the petitioner had moved an application for recalling the witness of the respondent-complainant Bank for the purpose of his further cross-examination and also for granting permission to produce certain documents on record, which was dismissed by the learned trial Court by passing the impugned order. It is argued that this order is not sustainable in the eyes of law as while passing the same, the learned Magistrate did not apply his judicious mind. The reasoning given by him is based on conjectures and surmises. Infact, the petitioner wanted to produce documents on record to show that the respondent-complainant Bank had committed fraud with him and had misused the blank cheques submitted by way of security for the agricultural loan by converting them for use as crop loan. Before the Debt Recovery Tribunal, totally different pleas had been taken by the respondent-complainant. The production of the proposed evidence would have done

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substantive justice between the parties but this fact had not been taken into consideration. Therefore, it is argued that the impugned order is liable to be set aside, the petition deserves to be accepted and further that the application of the petitioner for recalling the complainant and producing documents on record by way of additional evidence deserves to be allowed. To fortify his argument, learned counsel for the petitioner has placed reliance upon **Gurvinder Singh v. Surinder Singh Usan**, 2020 (1) R.C.R. (Criminal) 728 and **Pearl Organics Limited v. ICICI Limited and another**, 2008 (17) SCC 721.

4. I have heard learned counsel for the petitioner at considerable length and have gone through the record.

5. The petitioner had filed application for recalling the witness of complainant for his further cross-examination and for producing certain documents to put the said witness of the respondent-complainant, at the time when the evidence of the respondent-complainant had already been closed and even he himself had led his defence evidence by producing several witnesses. No doubt, under Section 311 of Cr.P.C., the Court has ample power to recall a witness for his further cross-examination or even for producing any additional evidence, however the powers under this provision must be invoked in order to meet the ends of justice for strong and valid reasons and are to be exercised with great care, caution and circumspection and not for the purpose of filling lacuna in the case of the party seeking exercise of the same. The Court is required to satisfy itself that the recall of a witness or production of proposed document was very essential for just

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decision of the case. In the instant case, the plea taken by the petitioner is that the respondent-complainant had taken some blank signed cheques from his brothers and himself at the time of providing agricultural loan to them but subsequently, it had used those cheques for the purpose of adjustment of the crop loan in the shape of Kisan Cash Card Limit without knowledge and consent of the petitioner. According to the petitioner, this fact came to his knowledge during cross-examination of witness produced by the respondent-complainant Bank. The petitioner sought to produce the documents relating to the proceedings which are pending between the parties before Debt Recovery Tribunal. The learned trial Court observed that the recall of witness of the complainant for further cross-examination with regard to the proceedings pending before the Debt Recovery Tribunal and the documents produced therein could not be allowed as the document so produced were very much within the knowledge of the petitioner at the time when he was cross-examining this witness. The petitioner has not been able to place anything to the contrary on record. It had also been observed by the learned Magistrate that the petitioner himself availed as many as 16 effective opportunities to lead evidence in his defence but did not take any steps to produce and prove the documents regarding re-construction of the loan amount which he wanted to put to the witness of the complainant by filing application. The learned Magistrate dealt with all the points as raised in the application filed by the petitioner while passing the impugned order and has passed well reasoned and detailed order. On going through the same, I see no reason to interfere with the findings so recorded by learned Magistrate

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while exercising the powers as a revisional Court. Accordingly, finding no merit, the petition is dismissed.

17.07.2024
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(MANISHA BATRA)
JUDGE

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