2024:PHHC:145561

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

106

CRR No.1037 of 2024
Date of Decision: 05.11.2024

M/s New Bhagwati Packers and another ... Petitioners

Versus

Anita Goyal ... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Akash Manocha, Advocate,
for the petitioners.

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MANISHA BATRA, J. (Oral)

1. Prayer has been made by the petitioners for setting aside the order dated 22.02.2024 passed by the Court of Sub Divisional Judicial Magistrate, Dhuri in Criminal Complaint bearing No.Nact/2109/19 titled as Anita Goyal v. M/s New Bhagwati Packers and another, whereby an application moved by the petitioner for summoning official of GST Department, Ludhiana along with record of GST 3B return had been dismissed by the learned Magistrate.

2. Briefly stated relevant facts are that the respondent has filed a complaint under Section 138 of the Negotiable Instruments Act, 1881 (For short "Act") against the present petitioners on the allegations that the cheques issued by the present petitioners in favour of the respondent-

complainant in discharge of their legally enforceable liability had been dishonoured. The abovesaid complaint is at the stage of producing evidence by the respondent-complainant. It is revealed from the record that during the course of recording evidence by the witnesses of the respondent-complainant, the present petitioners moved an application for summoning concerned official from GST Department, Ludhiana with direction to him to produce record of GST 3B return pertaining to the period from October 2019 to September 2020 and for allowing the petitioners to confront the complainant by examining the abovesaid witness i.e. official of GST Department and the abovementioned record. The learned trial Magistrate dismissed the application by observing that the petitioners could produce the concerned record from the GST Department at the stage of producing their evidence in defence and they could not be granted any permission to summon a witness at the stage when the respondent-complainant has been leading evidence.

3. It is argued by learned counsel for the petitioners that the impugned order is liable to be set aside as while passing the same, the learned Magistrate did not apply her judicious mind. A cryptic and non-speaking order had been passed. The fact that the petitioners wanted to prove the record of GST 3B return in evidence and to confront the complainant with the same, has been ignored though the production of the abovesaid record and getting the same confronted from the respondent-complainant was must for just decision of the case. Therefore, it is argued that the petition deserves to be allowed and the impugned order is liable to be set

aside.

4. I have heard learned counsel for the petitioners at considerable length and have perused the record and on a perusal of the same, I am of the considered opinion that the petition does not deserve to be allowed.

5. Admittedly and evidently, the complaint filed by the respondent and pending before the learned trial Magistrate is at the stage of producing evidence of the respondent. No doubt, the petitioners have a right to cross-examine the respondent-complainant and the witnesses to be produced by her. Simultaneously, it is the right of the petitioners to confront the respondent-complainant or her witnesses with some document. However, that does not make the petitioners entitled to summon any witness at the stage when the respondent-complainant is availing her right to produce her own evidence. More so, as reflected, it was only some document in the form of GST 3B return which the petitioners want to be produced on record so that the same can be put to the respondent-complainant or the witnesses to be examined by her. Such a document can even otherwise be put to the respondent-complainant by the petitioners and not by way of summoning a witness from GST Department. On 21.05.2024, the petitioners were asked to place on record copy of the GST 3B return which they intended to place on record of trial Court but no such document has been produced. An argument has been raised by learned counsel for the petitioners that as alleged by the respondent, an amount of Rs.31,47,458/- was outstanding against the petitioners in respect of some credit purchase and the account statement with GST returns is attached with legal notice sent by the respondent. It is

submitted that by confronting the respondent with record of GST 3B return, the petitioners would be able to prove that no such amount was outstanding against them and they would be denied of that opportunity if the application is not allowed. There is no force in this contention as the petitioners can very well produce such return at the time of producing evidence in their defence. The learned trial Magistrate after taking all these facts and circumstances into consideration and by passing a speaking and well reasoned order, had dismissed the application moved by the petitioners and in view of the discussion as made above, I see no reason to come to any contrary conclusion. Accordingly, finding no merit, the petition is dismissed.

(MANISHA BATRA)
JUDGE

05.11.2024
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Whether speaking/reasoned Yes/No
Whether reportable Yes/No