



CRM-M-5957-2017

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

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CRM-M-5957-2017

Date of Decision:- 05.11.2024

Arvind Kumar Pandey

....Petitioner

Vs.

Pardeep Kumar

...Respondents

**CORAM:-HON'BLE MRS. JUSTICE AMARJOT BHATTI**

Present:- Mr. Navneet Jindal, Advocate for petitioner.

Mr. Munish Joshi, Advocate for respondent.

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**AMARJOT BHATTI, J.**

1. Petitioner Arvind Kumar Pandey filed this petition under Section 482 Cr.P.C. for quashing of impugned order dated 31.01.2017 (Annexure P-1) whereby application for leading additional evidence of the petitioner has been declined or for any other direction which the Court may deem fit in the given facts and circumstances of the case.

2. As per the facts of the case, during the pendency of Criminal Appeal No.12 dated 06.01.2014, appellant Arvind Kumar Pandey i.e. present petitioner filed application under Section 391 Cr.P.C.(Annexure P-1) seeking permission to lead additional evidence on record. This application was contested by the respondent Pardeep Kumar Kinger by filing reply (Annexure P-3) and after hearing arguments, application for taking additional documents on record was declined by passing impugned order dated 31.01.2017 (Annexure P-1). Feeling aggrieved of this order, present

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petition has been filed.

3. Learned counsel for petitioner argued that petitioner was convicted under Section 138 of Negotiable Instruments Act and against the judgment of conviction and order of sentence appeal was filed which is pending in the Court of Additional Sessions Judge, Chandigarh. Present petitioner filed application seeking permission to place on record the copy of judgment in complaint titled “Pardeep Kumar Kinger Vs. M/s The Garden Store and Ors.” decided by the court of learned Judicial Magistrate First Class, UT, Chandigarh in which the complaint was dismissed and the present petitioner was acquitted. He wanted to place on record certified copies of said documents mentioned as Annexure AA-1 to AA-17 as detailed in application Annexure P-2. Recital in the aforesaid judgment will clarify the facts which are relevant for the disposal of present appeal. Learned counsel for petitioner pointed out that in the connected appeal titled as “Sudha Pandey Vs. Pardeep Kumar Kinger” application was filed under Section 391 of Cr.P.c. (Annexure P-4) seeking permission to lead additional evidence pertaining to the same documents, that application was also contested by the respondent by filing reply (Annexure P-5) and the same was allowed vide order dated 22.09.2016 (Annexure P-6). However, in the criminal appeal filed by the present petitioner said application was declined without any justification. Therefore, impugned order dated 31.01.2017 (Annexure P-1) may kindly be set aside and he may be permitted to place on record the documents by way of additional evidence as detailed in the application (Annexure P-2).

4. Petition is opposed by learned counsel representing respondent that the documents detailed in the application and the judgment of acquittal

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are not relevant for the adjudication of criminal appeal filed by the petitioner. Facts of the complaint case are to be decided on its own merits vide which present petitioner was convicted and sentenced by learned Judicial Magistrate Ist Class. He cannot derive any benefit from the judgment passed in another case. Considering the facts application filed by the petitioner was rightly declined by passing impugned order dated 31.01.2017. It is prayed that petition filed by the petitioner may kindly be declined.

5. I have considered the arguments and have gone through the record. It is matter of record that present petitioner filed appeal against judgment of conviction and order of sentence in which he filed application (Annexure P-2) seeking permission to place on record documents by way of additional evidence and the same was declined by learned Additional Sessions Judge by passing order dated 31.01.2017 (Annexure P-1). However, in the criminal appeal filed by Sudha Pandey against judgment of conviction and order of sentence against the respondent similar application (Annexure P-4) was filed. After getting reply (Annexure P-5), the same was allowed vide order dated 22.09.2016 (Annexure P-6). Therefore, same Presiding Officer has passed different order pertaining to similar application filed in two different appeals.

6. Coming to the merits of application for additional evidence, present petitioner wants to place on record copy of judgment and documents vide which complaint filed by Pardeep Kumar Kinger was dismissed and resulted into acquittal of the accused in that case facing trial under Section 138 of Negotiable Instruments Act. It cannot be denied that facts of each

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case are to be decided on the basis of evidence led in that particular case. Respondent Pardeep Kumar Kinger was complainant in the said case which was dismissed by the trial Court. Relevance of the said judgment and the supporting documents can be considered by the learned Additional Sessions Judge at the relevant time while deciding the criminal appeal on merits.

7. Considering the fact that in the other criminal appeal, application filed under Section 391 Cr.P.C. was allowed and secondly respondent Pardeep Kumar Kinger is common in all the cases, therefore, without expressing my mind on merits, impugned order dated 31.01.2017 (Annexure P-1) is set aside and present petitioner is permitted to place on record the documents detailed in application Annexure P-2 by way of additional evidence for its consideration at the time of final adjudication of criminal appeal. Present petition is accordingly disposed of.

8. Pending miscellaneous application(s), if any, stand disposed of accordingly.

**05.11.2024***Sunil Devi***(AMARJOT BHATTI)  
JUDGE**

Whether speaking/reasoned:  
Whether reportable:

Yes/No  
Yes/No