

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

115

CRR-1094-2024 (O&M)

Date of Decision : July 05, 2024

M/S AKANKSHA TANNERIES & ANR -PETITIONERS

V/S

CENTRAL BANK OF INDIA & ANR -RESPONDENTS

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Aditya Dassaur, Advocate
 for the petitioners.

Mr. Naren Pratap Singh, Advocate
for the respondent No.1-Bank.

KULDEEP TIWARI, J. (ORAL)

1. The instant revision petition is directed against the interlocutory order dated 09.05.2024, whereby, the learned Magistrate concerned has, by order of court, closed the defence evidence of the petitioner/accused.

2. The learned counsel for the petitioner submits that, an application dated 21.04.2024 (Annexure P-2) was filed by the petitioner before the learned Magistrate concerned, thereby seeking permission to deposit diet money and process fee for summoning the following witness:-

“(a) Concerned Record Keeper from Central Bank of India, Branch New Jawahar Nagar, Jalandhar along with original loan file bearing account No.3963273824 in the name of Akanksha Tenneris and the letter dated 20.07.2020 from Akanksha Tenneris to Branch Manager.”

3. The learned counsel for the petitioner submits that, although the application (supra) was allowed, however, it was subject to the condition that the petitioner/accused shall examine the said witness at his own responsibility and no assistance from the Court shall be provided. He further submits that, since this witness is concerned with the complainant-Bank, therefore, except the assistance of the Court, it is not within the domain of the petitioner to call this witness for examination. Therefore, the learned Magistrate concerned ought to have summoned this witness through court summons for his examination.

4. Concluding his arguments, the learned counsel for the petitioner submits that the statement of the petitioner/accused under Section 313 of the Cr.P.C. was recorded in January 2024 and the application (supra) was filed in April 2024, i.e. within three months, therefore, it cannot be said that there was/is any *malafide* intent on the part of the petitioner to delay the conclusion of trial.

5. *Per contra*, the learned counsel for the respondent No.1/complainant-Bank has opposed the grant of relief claimed by the petitioner, on the ground that, the making of the application (supra) is purely a dilatory tactic on the part of the petitioner, inasmuch as, when on different occasions the bank officials were present before the learned Magistrate/trial Court concerned, the petitioner opted not to examine/cross-examine them.

6. This Court has heard the rival contentions of the learned

counsels appearing before this Court and also examined the relevancy and necessity of the witness (supra) for the purpose of just and proper conclusion of trial.

7. Be that as it may, this Court is of the view that, in the given facts and circumstances, the witness (supra), i.e. Record Keeper of the complainant-Bank, can only be summoned through court summons, which the learned Magistrate concerned has declined to do, thereby causing prejudice to the petitioner. Consequently, this Court deems it appropriate to direct the learned Magistrate concerned to re-consider the petitioner's application (Annexure P-2) and summon the witness, as enumerated therein, through court summons and thereupon, give adequate opportunity to the petitioner/accused to examine/cross-examine this witness.

8. Needless to say that this order shall not equip the petitioner with a tool to further delay the conclusion of trial by not examining the summoned witness, as and when he/she appears before the learned Magistrate/trial Court concerned.

9. Disposed of accordingly.

10. Pending application(s) also stand disposed of accordingly.

July 05, 2024
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(KULDEEP TIWARI)
JUDGE

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