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

CRM-M-29135-2024

Date of Decision:- 15.07.2024

PYARE LAL

....Petitioner

Vs.

KANHEYA MEDICAL AGENCY AND ANR

...Respondents

CORAM:-HON'BLE MRS. JUSTICE AMARJOT BHATTI

Present:- Mr. Jitender K. Sehrawat, Advocate for the petitioner.

AMARJOT BHATTI, J. (Oral)

1. Petitioner Pyare Lal has filed petition under Section 482 Cr.P.C. for quashing of impugned order dated 01.05.2024 passed by learned Additional Sessions Judge, Hisar (P-5) and order dated 14.11.2022 (P-3) passed by learned Judicial Magistrate 1st Class, Hisar in complaint under Section 138 of Negotiable Instruments Act, 1881 (In short 'NI Act') on application under Section 311 Cr.P.C. which has been dismissed.

2. Learned counsel for petitioner argued that present petitioner had filed a complaint under Section 138 of NI Act against Kanheya Medical Agency through its partner Sahil Khaturia as well as Sahil Khaturia in personal capacity regarding dishonour of three cheques. Copy of complaint under Sections 138/141 of NI Act is Annexure P-1. Case was fixed for defence evidence when present petitioner filed application under



Section 311 Cr.P.C. for producing documents consisting of original partnership deed dated 19.09.2017, copy of PAN Cards of Sahil and Pyare Lal, original dissolution deed dated 15.09.2018, copy of Aadhar Cards of Sahil and Pyare Lal and account statement of Pyare Lal. It is argued that aforesaid documents were necessary and relevant for proper adjudication of the case. However, learned Judicial Magistrate 1st Class, Hisar dismissed the application vide order dated 14.11.2022 (P-3). Thereafter, present petitioner filed revision against impugned order dated 14.11.2022. Copy of revision petition is Annexure P-4 and said revision was also declined by passing judgment dated 01.05.2024 (P-5). There was no proper appreciation of the facts and the documents which were required to be proved in complaint under Section 138 of NI Act. Merely the application was filed at a belated stage and secondly to fill up lacuna in the case, the application was declined. It is submitted that aforesaid order dated 14.11.2022 (P-3) passed by learned Judicial Magistrate 1st Class, Hisar is without merits and the revision preferred by the petitioner was declined vide judgment dated 01.05.2024 (P-5) without valid justification. Therefore, aforesaid present petition may be allowed and the aforesaid order dated 14.11.2022 (P-3) and judgment dated 01.05.2024 (P-5), Annexure P-3 and P-5 may be quashed and he may be permitted to lead additional evidence as mentioned in the application under Section 311 Cr.P.C.

3. I have considered the arguments and have gone through the record carefully.

4. No purpose would be served by giving notice to the respondents



as it will amount to unnecessary delay.

5. Learned counsel for petitioner has also placed on record relevant documents which are required for the adjudication of present case. Admittedly, Pyare Lal filed complaint under Section 138 of NI Act against the respondents in which when the case was fixed for defence evidence he filed application for leading additional evidence under Section 311 Cr.P.C. Petitioner wanted to place on record documents consisting of original partnership deed, dissolution deed, account statement of Pyare Lal along with PAN Cards and Aadhar Cards of Sahil and Pyare Lal. Learned trial Court declined the application by passing detailed order dated 14.11.2022 (P-3). Feeling aggrieved of this order, revision was preferred by present petitioner which was also declined by learned Additional Sessions Judge by passing judgment dated 01.05.2024 (P-5). Revision petition was declined on the ground that it was not maintainable under Section 397 (2) Cr.P.C. since the order dated 14.11.2022 (P-3) was interlocutory order. Gainful reference can be made to judgment of Hon'ble Supreme Court of India in *Sethuraman Vs. Rajamanickam 2010 (5) RCR (Criminal) 512*. Relevant para No.4 runs as under:-

“Secondly, what was not realised was that **the order passed by the Trial Court refusing to call the documents and rejecting the application under Section 311 Criminal Procedure Code, were interlocutory orders and as such, the revision against those orders was clearly barred under Section 397(2) Criminal Procedure Code.** The Trial Court, in its common order, had clearly mentioned that the cheque was admittedly signed by the respondent/accused and the only defence that was raised, was



that his signed cheques were lost and that the appellant/complainant had falsely used one such cheque. The Trial Court also recorded a finding that the documents were not necessary. This order did not, in any manner, decide anything finally. Therefore, both the orders, i.e., one on the application under Section 91 Criminal Procedure Code for production of documents and other on the application under Section 311 Criminal Procedure Code for recalling the witness, were the orders of interlocutory nature, in which case, under Section 397(2), revision was clearly not maintainable. Under such circumstances, the learned Judge could not have interfered in his revisional jurisdiction. The impugned judgment is clearly incorrect in law and would have to be set aside. It is accordingly set aside. The appeals are allowed.”

6. Learned Additional Sessions Judge, Hisar has also referred to judgment of *Hon’ble Apex Court titled as Girish Kumar Saneja Vs. CBI, AIR 2017 Supreme Court 3620* where again it was reiterated that revision petition against interlocutory order can be rejected at threshold. Therefore, considering the legal position, revision against order dated 14.11.2022 passed by learned Judicial Magistrate 1st Class, Hisar was not maintainable being interlocutory order. I do not find any reason to interfere in the findings given by learned Additional Sessions Judge, Hisar in its judgment dated 01.05.2024 vide which revision preferred against order dated 14.11.2022 passed by learned Judicial Magistrate 1st Class, Hisar was declined.

7. With these observations, present revision petition preferred by petitioner is, accordingly, declined.



8. It is made clear that observations recorded here-in-above will have no bearings on the merits of the case.
9. Pending miscellaneous application(s), if any, stand disposed of accordingly as well.

15.07.2024
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(AMARJOT BHATTI)
JUDGE

Whether speaking/reasoned: Yes/No.
Whether reportable: Yes/No