



CRM-M-33672-2024 (O&M)

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

CRM-M-33672-2024 (O&M)

Date of Decision:- 22.08.2024

Jasmer Singh Rana

.... Petitioner

Vs.**Kotak Mahindra Bank (formerly ING Vyasya Bank Ltd.)**

.... Respondent

CORAM:- HON'BLE MRS. JUSTICE AMARJOT BHATTI

Present:- Mr. Arun Dogra, Advocate
for the petitioner.

AMARJOT BHATTI, J.**CRM-33454-2024**

This is an application filed under Section 482 Cr.P.C. for seeking necessary permission to place on record certified copy of statement dated 10.03.2023 (Annexure P-10) along with certified copy of Amalgamation Scheme dated 07.01.2015 (Annexure P-11).

For the reasons enumerated in application, documents i.e. Annexure P-10 and Annexure P-11 are taken on record, subject to just exceptions.

CRM is accordingly allowed.

Main case

Petitioner Jasmer Singh Rana has filed petition under Section 482 Cr.P.C. for setting aside/quashing impugned order dated 20.05.2024 (Annexure P-9) passed in complaint No. NACT/5570/2017 (Annexure P-1)

under Section 138 of the Negotiable Instruments Act titled as "Kotak



Mahindra Bank Vs. Jasmer Singh Rana” pending in the Court of learned Judicial Magistrate Ist Class, Chandigarh, whereby, application filed under Section 311 Cr.P.C. for recalling/re-examination of complainant was declined.

2. Brief facts of the case are Kotak Mahindra Bank, (formerly ING Vyasya Bank Ltd.) represented through its Authorized Representative/Branch Manager filed complaint under Section 138 of Negotiable Instruments Act against Jasmer Singh Rana. In complaint it was alleged that ING Vyasya Bank Ltd. was amalgamated with Kotak Mahindra Bank and Amalgamation Scheme was sanctioned by Reserve Bank of India on 31.03.2015. Present petitioner/accused as per terms and conditions of loan issued cheque in question for a sum of ₹1,00,81,612/- in discharge of legal liability towards repayment of said credit facility being principal borrower and on dishonour of cheque with remarks “Funds Insufficient”, legal notice was issued and ultimately complaint was filed. Copy of complaint is Annexure P-1. Proceedings started in aforesaid complaint. After completion of evidence on the part of complainant, present petitioner filed application under Section 311 Cr.P.C. to recall complainant for cross-examination. Application under Section 311 Cr.P.C. is Annexure P-7. It was alleged that Amalgamation Scheme was tendered into evidence by complainant. Therefore, accused/petitioner did not get proper opportunity to cross-examine the witness, causing serious prejudice to him. Therefore, complainant may be recalled for further cross-examination on said Amalgamation Scheme. Application was opposed by complainant by filing reply Annexure P-8. After hearing arguments, said



application was declined by learned Judicial Magistrate Ist Class, Chandigarh by passing impugned order dated 20.05.2024, which is Annexure P-9. Feeling aggrieved of this order, present petition has been filed.

3. Learned counsel for petitioner pointed out that without properly considering the facts of case, application filed by petitioner under Section 311 Cr.P.C. was wrongly declined. It was the responsibility of respondent/complainant to produce vital document along with complaint so that other gets an opportunity to cross-examine the witness. Said Amalgamation Scheme was merely tendered while closing evidence. Therefore, present petitioner did not get an opportunity to cross-examine the witness on said Amalgamation Scheme. Therefore, impugned order dated 20.05.2024, Annexure P-9, passed by learned Judicial Magistrate Ist Class, Chandigarh is liable to be set aside and present petitioner may be given opportunity to cross-examine CW-1 on the said Amalgamation Scheme.

4. I have considered the facts and arguments advanced by learned counsel for petitioner. No purpose would be served by issuing notice to respondent. Entire relevant record is already placed on file by learned counsel for petitioner.

It is matter of record that Kotak Mahindra Bank filed complaint against the present petitioner under Section 138 of Negotiable Instruments Act, on the basis of dishonour of cheque. While filing complaint, it was categorically mentioned that ING Vyas Bank Limited was amalgamated with Kotak Mahindra Bank and Amalgamation Scheme was sanctioned by



Reserve Bank of India. On this account, complaint was filed by Kotak Mahindra Bank through its authorized representative/Branch Manager. Therefore, the fact of amalgamation was well within the knowledge of present petitioner right from the very beginning. Learned counsel for petitioner has placed on record statement of Mukesh Kumar, Deputy Manager, Kotak Mahindra Bank as CW-1, which is Annexure P-2. Affidavit was tendered on 13.06.2022 and thereafter, witness was recalled for his cross-examination on 10.11.2022, 09.02.2023, 22.02.2023 and 10.03.2023 which are Annexure P-3 to P-6 respectively. Perusal of said cross-examination clearly indicates that witness was cross-examined pertaining to the scheme of amalgamation. During cross-examination conducted on 10.11.2022, witness stated that he will bring detailed scheme on the next date of hearing. Thereafter, there is cross-examination dated 10.03.2023, where in the first line of cross-examination it has come on record that witness Mukesh Kumar CW-1 had brought the Amalgamation Scheme. Therefore, learned counsel for petitioner had full opportunity to cross-examine the witness on the said Amalgamation Scheme. Mere fact that complainant closed the evidence after placing on record copy of Amalgamation Scheme Ex.CX and certificate under Section 65-B of Indian Evidence Act Ex. CY does not mean that present petitioner was not given opportunity to cross-examine the witness on the said Amalgamation Scheme. In-fact, statement of Mukesh Kumar CW-1 indicates that present petitioner was given full opportunity to cross-examine the witness by calling him on four dates.

In view of aforesaid factual position, I do not find any reason to interfere in the impugned order dated 20.05.2024 (Annexure P-9) passed by learned Judicial Magistrate Ist Class, Chandigarh and same is accordingly upheld.

5. Petition is accordingly dismissed.
6. Pending miscellaneous application(s), if any, stand disposed of accordingly as well.

22.08.2024

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(AMARJOT BHATTI)

JUDGE

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