

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

123

CRM-M-35110-2023
Date of Decision : January 23, 2024

SUKHBIR SINGH -PETITIONER

V/S

SWINDER SINGH -RESPONDENT

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Surinder Thakur, Advocate
for the petitioner.

KULDEEP TIWARI, J. (ORAL)

- Through the instant petition, the petitioner seeks quashing of the impugned order dated 31.05.2023, whereby, the learned Magistrate concerned has allowed the application filed by the respondent, thereby seeking amendment of the affidavit of examination-in-chief of the complainant/respondent in Complaint No.NACT-261-2019, titled as “Sawinder Singh Vs. Sukhbir Singh”.
- As a matter of fact, the complainant/respondent had filed a complaint, under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter referred to as the ‘N.I. Act’) against the petitioner, which resulted in the learned trial Court concerned summoning the latter to face trial.
- However, during complainant’s/respondent’s evidence, it came to his counsel’s notice that, owing to inadvertence and oversight, an affidavit, which indeed belonged to another complaint titled as “Swinder Singh Vs. Pawan Kumar”, was filed in the complaint (supra) as

examination-in-chief of the complainant/respondent. Therefore, an application was filed by the learned counsel for the complainant/respondent, thereby seeking permission to place on record the correct affidavit in examination-in-chief of the complainant/respondent. Resultantly, considering the innocuous prayer, as made in the application, and, in order to avoid multiplicity of litigation, the learned trial Court, vide order dated 31.05.2023, allowed the said application and permitted the complainant/respondent to place on record the correct affidavit in his examination-in-chief.

4. The drawing of the impugned order 31.05.2023 has caused grievance to the petitioner and has driven him to this Court, thereby assailing the said order.

5. The learned counsel for the petitioner submits that since there is no statutory provision in existence, which empowers a Magistrate to allow amendment of the examination-in-chief of a witness, therefore, the impugned order dated 31.05.2023 is illegally drawn and deserves to be quashed.

6. This Court has heard the submissions made by the learned counsel for the petitioner and has also examined the impugned order. However, this Court does not find any vigour in the submissions addressed by the learned counsel for the petitioner, inasmuch as, the record available before this Court makes it vividly clear that the learned trial Court concerned has only permitted the complainant/respondent to rectify an error, which occurred owing to inadvertence and oversight. Since a wrong affidavit, which indeed pertained to some other complaint,

became appended with the complaint (supra) as examination-in-chief of the complainant/respondent, therefore, granting permission to amend the said wrong affidavit with the correct affidavit cannot be termed to have caused any prejudice to the petitioner, nor it can be termed to have permitted the complainant/respondent to fill up any legal lacuna.

7. Moreover, the learned counsel for the petitioner could not cite any illegality or perversity in the impugned order, which may render the same unsustainable in the eyes of law and resultantly, constrain this Court to make any interference.

8. Consequently, the instant petition is dismissed being devoid of merits and the impugned order dated 31.05.2023, as passed by the learned Magistrate concerned, is maintained and affirmed.

January 23, 2024
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(KULDEEP TIWARI)
JUDGE

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