



CRM-M-44227-2024

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

CRM-M-44227-2024

Date of Decision: 06.09.2024

Sukha Ram

..... Petitioner

Versus

Rupinder Kaur

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Naveen Sheokand, Advocate and
Ms. Kriteka Sheokand, Advocate, for the petitioner.

Rajesh Bhardwaj, J. (ORAL)

1. Prayer in the present petition is for setting aside of the order dated 20.05.2024 passed by learned Chief Judicial Magistrate, Fatehgarh Sahib in CIS No.NACT-33-2020, whereby, cross-examination of the complainant was ordered to be treated as nil, order dated 04.06.2024 passed by learned Chief Judicial Magistrate, Fatehgarh Sahib in the same case, whereby, an application filed by the petitioner for recalling of the order dated 20.05.2024 was dismissed and also order dated 21.08.2024 passed by learned Sessions Judge, Fatehgarh Sahib, whereby, revision petition filed by the petitioner against order dated 04.06.2024, was dismissed.

2. It is submitted by learned counsel for the petitioner that the petitioner has been prosecuted by the respondent-complainant in a complaint filed under Section 138 of the Act. He submits that impugned cheque is of the amount of Rs.2,00,000/-. It is submitted that as the petitioner was not duly served, he was not aware of the pendency of the proceedings pending against him. He submits that lateron he duly appeared before the Court and no proclamation was issued and thereafter, the respondent-complainant has



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been examined as CW-1, but the petitioner has not been granted opportunity to cross-examine the complainant. It is further submitted that the petitioner would suffer an irreparable loss and injuries, if his prayer for cross-examination of the complainant, is declined. He submits that the petitioner be granted only one opportunity to cross-examine the complainant and he would not pray for another opportunity for the same purpose. It is also submitted by him that the case is now fixed for 16.09.2024.

3. Heard.

4. After hearing learned counsel for the petitioner and perusing the record, it is apparent that the petitioner has been prosecuted in a complaint filed under Section 138 of the Act by the respondent-complainant. As is evident from the impugned order dated 20.05.2024, right of the petitioner to cross-examine the complainant was declined as his counsel had failed to cross-examine the complainant. There is no denial to the fact that the petitioner is accused in the complaint and declining his prayer for cross-examination of the complainant, would be against the interest of justice. Although the petitioner being present in the Court on 20.05.2014 has no sufficient cause to explain the reasons for not cross-examining the complainant, yet in the interest of justice, the Court finds it appropriate to grant him one opportunity to cross-examine the respondent-complainant. Thus, the impugned orders under challenge are set aside. The trial Court is directed to grant him one effective opportunity for cross-examination of the complainant subject to costs of Rs.20,000/- to be paid to the complainant on the date fixed i.e. 16.09.2024.

5. The petitioner is directed to appear before the trial Court on the



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date fixed and deposit Rs.20,000/- and trial Court would grant him one opportunity for cross-examination of the complainant. The costs of Rs.20,000/- shall be paid to the complainant forthwith by the trial Court. It is clarified that the petitioner will not be granted any other opportunity for the said purpose and thereafter, the trial Court will proceed further as per law.

6. Needless to say that in case the petitioner fails to comply with the abovesaid direction, this order would be of no avail and the orders under challenge will come in force.

7. Petition stands disposed of in abovesaid terms.

8. A copy of this order be given *dasti* to counsel for the petitioner under the signature of Special Secretary of this Bench.

(RAJESH BHARDWAJ)**JUDGE****06.09.2024**

sharmila

Whether Speaking/Reasoned :

Yes/No

Whether Reportable :

Yes/No