



CRM-M-49927-2024

-1-

119

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

CRM-M-49927-2024

Date of Decision:- 06.11.2024

M/s Neu World Resources

...Petitioner

Vs.

M/s Bloom Impex(P) Ltd.

...Respondent

CORAM:-HON'BLE MRS. JUSTICE AMARJOT BHATTI

Present:- Mr. Kunal Dawar, Advocate and
Mr. Mayank Aggarwal, Advocate for the petitioner.

AMARJOT BHATTI, J.

1. Petitioner – M/s Neu World Resources, being a proprietorship concern of Yashwardhan Lath, through its Power of Attorney holder Shri Pramod Lath filed petition under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 for setting aside order dated 01.02.2024 (Annexure P-9) passed by learned Judicial Magistrate Ist Class, Gurugram in case No. NACT/30024/2018 dated 15.09.2018 titled “M/s Bloom Impex (P) Ltd. Vs. M/s Neu World Resources” under Section 138 of Negotiable Instruments Act, 1881, whereby right of petitioner/accused to cross-examine CW-1 Authorized Representative of complainant has been closed by order with a prayer that petitioner may be granted one opportunity to cross-examine the witness.

2. Learned counsel for petitioner argued that aforesaid complaint was filed by respondent/complainant on 15.09.2018 on account of

**CRM-M-49927-2024****-2-**

dishonour of cheques due to insufficient funds. Copy of complaint under Section 138 of NI Act is Annexure P-1. Present petitioner was ordered to be summoned to face trial vide order dated 03.11.2018 and Notice of Accusation was served upon him on 21.11.2022. Thereafter, case was fixed for cross-examination of complainant's witnesses examined in aforesaid complaint. Learned trial Court had closed evidence of complainant and CW-1 was discharged vide order dated 01.02.2024 (Annexure P-9) and arrest warrants of petitioner were also issued. On the same day, application was filed seeking permission to cross-examine witness (Annexure P-10). Said application was declined by passing impugned order dated 12.06.2024 (Annexure P-12). However, taking a lenient view, accused/petitioner's exemption application was allowed and his arrest warrants issued in previous order were recalled. In-fact, learned counsel for petitioner could not appear in Court due to rain and traffic jam. Copy of order dated 01.02.2024 (Annexure P-11) indicates that file was taken up at 11:40 AM. Whereas, cross-examination of CW-1 was closed at 11:30 AM. There was no intentional absence on their part. It is submitted that petitioner be given one opportunity to conclude cross-examination of CW-1. Hence, present petition.

3. Learned counsel for petitioner has placed on record all interlocutory orders passed in aforesaid complaint case to clarify factual position. No purpose would be served by giving notice to respondent as it will lead to further delay in dispose of present petition as well as case pending before learned Judicial Magistrate Ist Class, Gurugram.

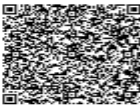


CRM-M-49927-2024

-3-

4. I have considered the arguments and have gone through interlocutory orders passed by learned Judicial Magistrate Ist Class, Gurugram from time to time. Case was fixed for cross-examination of CW-1 for the first time on 02.03.2023. Witness was partially cross-examined on 11.07.2023 (Annexure P-3) and cross-examination was deferred with direction to produce documents. On the next date i.e. 02.08.2023 (Annexure P-4), complainant had appeared alongwith documents. However, complainant sought adjournment as he was having some urgent work and cross-examination was deferred for next date. Perusal of *zimni* orders indicates that sometimes there was request for adjournment from the side of learned counsel for complainant and at times there was request on behalf of learned counsel for accused/petitioner. Record indicates that present petitioner filed application seeking exemption on almost each date of hearing, which was liberally allowed by learned trial Court. Thereafter, petitioner was granted opportunity to cross-examine CW-1 subject to payment of cost of ₹2,000/-, which was not paid and again adjournment was sought. Ultimately, evidence of complainant was closed vide order dated 01.02.2024 (Annexure P-9) and application seeking permission to cross-examine witness CW-1 was also declined by passing detailed order dated 12.06.2024 (Annexure P-12). At present, case is fixed for defence evidence.

No doubt, there is lapse on the part of present petitioner in completing cross-examination of CW-1. However, it is in the interest of justice that both parties are given sufficient opportunity to present their



CRM-M-49927-2024 -4-

case so that it is decided on merits. Other party i.e. respondent/complainant can be compensated by imposing cost on petitioner. Therefore, subject to payment of cost of ₹25,000/- to respondent/complainant, petitioner is granted one effective opportunity to cross-examine CW-1 as per order of Learned Magistrate. Respondent/complainant is also directed to produce summoned record in pursuance of order dated 02.08.2023 for the purpose of cross-examination.

- 5. With aforesaid observation, present petition is disposed of.
- 6. Pending miscellaneous application(s), if any, stand disposed of accordingly as well.

06.11.2024
lalit

(AMARJOT BHATTI)
JUDGE

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