



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

CRM-M-50473-2024

Date of decision : 07.10.2024

Chiranshu Arora

.....Petitioner

versus

Dheeraj Nunhani

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. D.S. Matya, Advocate
for the petitioner.

RAJESH BHARDWAJ, J. (ORAL)

1. Prayer in the present petition is for quashing of impugned order dated 30.01.2024 passed by learned Judicial Magistrate Ist Class, Gurugram in Complaint No.979 of 2020 vide which learned trial Court closed the complainant's evidence and the opportunity of the petitioner to cross-examine the respondent was treated as NIL and impugned order dated 28.08.2024 passed by learned Additional Sessions Judge, Gurugram (Annexure P-5) vide which the revision preferred by the petitioner against impugned order dated 30.01.2024 was dismissed in view of the reasons/grounds mentioned in the petition.

2. Learned counsel for the petitioner has stated that petitioner is facing the trial in a complaint case filed under Section 138 of the Negotiable Instruments Act by complainant-Dheeraj Nunhani. It has been submitted that petitioner filed an application to enable him to cross-examine the respondent/complainant and thereafter, 06 opportunities were granted to the petitioner to cross-examine the respondent/complainant before passing the order dated 30.01.2024 vide which the complainant's evidence was closed and opportunity of the petitioner to cross-examine



the respondent/complainant was treated as NIL and hence, the respondent/complainant could not be cross-examined. Aggrieved by the same, petitioner approached the Court learned Additional Sessions Judge, Gurugram against the impugned order dated 30.01.2024 however, the same was also dismissed vide impugned order dated 28.08.2024. He has further submitted that the petitioner who is the accused in the said complaint has every right to prove his defence. He undertakes to examine the respondent/complainant in one effective opportunity if granted by the trial Court. He has further submitted that in the facts and circumstances, the present petition is liable to be accepted and the orders under challenge dated 30.01.2024 and 28.08.2024 are liable to be set aside.

3. Heard. This Court deems it appropriate to decide the present petition without issuance of notice to the opposite party as it will delay the proceedings pending before the trial Court and also will result in wastage of time of the parties as well as this Court. It is a well settled law that every accused has a right to plead and prove his defence. In the present case, petitioner wants to cross-examine the respondent/complainant in order to prove his defence. So keeping in view the abovesaid facts, the present petition is allowed subject to payment of cost of Rs.35,000/- to be paid to the complainant. The orders dated 30.01.2024 and 28.08.2024 are *set aside*. The trial Court is directed to grant 01 effective opportunity to the petitioner to cross-examine the complainant in order to prove his plea. Before cross-examination of the said witness is started, the petitioner would pay an amount of Rs.35,000/- to the complainant as cost awarded by this Court and then start cross-examining the complainant. It is made clear that in no circumstance, another opportunity beyond 01 opportunity

as ordered by this Court would be granted to the petitioner for the purpose of cross-examination of complainant. Thereafter, the trial Court would proceed further in accordance with the law.

07.10.2024
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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