



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

CRR-2922-2023

Date of decision: 05.11.2024

M/s Ashoka Auto Store

...Petitioner

Versus

Hardial Singh

...Respondent

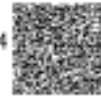
CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Lupil Gupta, Advocate for the petitioner.

KARAMJIT SINGH, J. (ORAL)

1. This revision petition has been filed by the petitioner/complainant against the order dated 18.11.2023 passed by the Court of Judicial Magistrate Ist Class, Dabwali, District Sirsa vide which an application under Section 311 Cr.P.C filed by the petitioner to produce certain documents by way of additional evidence in a criminal complaint NACT-103/2021 titled M/s Ashoka Auto Stores Vs. Hardial Singh under Section 138 NI Act, is partly allowed.

2. The brief facts of the case are that the petitioner filed aforesaid criminal complaint against respondent under Section 138 NI Act on the basis of dishonor of cheque issued by respondent in favour of the petitioner in discharge of his legal liability. After completion of preliminary evidence, respondent was summoned under Section 138 NI Act. Notice of accusation was served to which respondent pleaded not guilty. After the conclusion of the evidence of the complainant, the respondent was examined under Section 313 Cr.P.C. Thereafter, when the trial reached at its final stage, the



petitioner filed the aforesaid application under Section 311 Cr.P.C to produce the following documents by way of additional evidence:-

“i) Certified copies of plaint, written statement, replication and evidence of the civil suit titled M/s Ashoka Auto Stores Vs. Hardial Singh and another filed by the petitioner seeking recovery of Rs. 91,716/- from respondent on the basis of aforesaid cheque which was dishonored on its presentation.

ii) Certified copy of general power of attorney.

iii) The evidence of Paramjit Singh son of Sukhdev Singh resident of Village Doomwali.

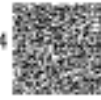
3. After hearing the counsel for the parties, the learned trial Court allowed the petitioner to produce certified copies of general power of attorney by way of additional evidence subject to cost of Rs.1000/-. The application filed by the petitioner under Section 311 Cr.P.C with regard to other documents/evidence was dismissed vide order dated 18.11.2023.

4. The counsel for the petitioner submits that the remaining documents/evidence is also necessary for the just decision of the case and made prayer that the application filed by the petitioner under Section 311 Cr.P.C deserves to be allowed in toto.

5. In pursuance to the notice of motion, no one appeared on behalf of respondent despite his due service.

6. I have considered the submissions made by counsel for the petitioner.

7. It transpires that on the basis of dishonor of cheque in question, the petitioner filed criminal complaint No.103/2021 against the respondent under Section 138 NI Act and also filed separate civil suit seeking recovery of the cheque amount from the respondent. The petitioner intends to place on record the certified copies of the plaint, written statement and replication of the said civil suit by way of additional evidence along with some other



documents and to examine one witness namely Paramjit Singh. The previous statements of the witnesses if any recorded in the civil suit could be used by the petitioner only to confront and contradict the concerned persons with their previous statements and not for any other purpose as per the provisions of Section 145 Evidence Act. The petitioner has also failed to clarify as to for what purpose he intends to examine one Paramjit Singh son of Sukhdev Singh by way of additional evidence. In the given circumstances, as the trial is at its fag end, the trial Court rightly dismissed the application moved under Section 311 Cr.P.C with regard to production of evidence recorded in the civil suit and regarding production of Paramjit Singh as a witness on behalf of the petitioner in the criminal complaint. However, this Court is of the view that the certified copies of the plaint, written statement and replication filed in the aforesaid civil suit filed on the basis of the cheque in question which is also subject matter of the criminal complaint NACT-103/2021 have got bearing on the criminal complaint case and are relevant for proper adjudication of the said criminal complaint. The petitioner is legally entitled to produce the relevant documents at any stage of the trial before passing of the final judgment, by invoking provision of Section 311 Cr.P.C.

8. In light of the above discussion, the present petition is partly allowed and petitioner is at liberty to produce the certified copies of plaint, written statement and replication of the civil suit titled M/s Ashok Auto Stores Vs. Hardial Singh, in the criminal complaint NACT-103/2021 by way of additional evidence, subject to cost of Rs.5000/- to be deposited by the petitioner in Poor Patients Fund, PGIMER, Chandigarh. The petitioner

is directed to appear before the learned trial Court on the date already fixed in the trial.

9. However, it is made clear that any observation made herein above is not to be construed as an expression of opinion on the merits of the case. The impugned order dated 18.11.2023 is set aside to the extent stated above.

10. The present petition is disposed of in aforesaid terms.

05.11.2024
Yogesh

(KARAMJIT SINGH)
JUDGE

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