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

CRM-M-62492-2024**Date of decision : 19.12.2024****Sukhpal Singh****.....Petitioner****Versus****M/s Sandeep Kumar Satish Kumar****..... Respondent****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

Present :- Mr. P.K. Ganga, Advocate
for the petitioner.

RAJESH BHARDWAJ, J. (Oral)

1. Present petition has been filed by the petitioner for setting aside the order dated 22.10.2024 (Annexure P-6) passed by the Learned Sessions Judge, Sirsa, whereby the order dated 09.09.2024 (Annexure P-4) passed by learned SDJM, Dabwali, dismissing the application filed by the petitioner under Section 311 Cr.P.C. for adducing the additional evidence by summoning of Branch Manager/concerned Clerk of Punjab & Sind Bank with record of Cheques along with relevant record and concerned Clerk of Market Committee and also for summoning Handwriting and Fingerprints Expert, has been affirmed by dismissing the revision.

2. It has been contended by learned counsel for the petitioner that the petitioner is a farmer and he was prosecuted in the complaint filed under Section 138 of the Negotiable Instrument Act, by the respondent-complainant who is a Commission Agent. He submits that the specific stand of the petitioner is that neither the cheque is issued by him nor he has signed the same. However, he has been prosecuted on the allegations



that the cheque is issued by the petitioner and he has only signed the cheque. He submits that for the proper adjudication of the case, the petitioner filed an application under Section 311 Cr.P.C. for summoning the Bank official/concerned Clerk of Punjab & Sind Bank and Market Committee and examine the hand writing expert. He submits that the same has been illegally declined by the learned trial Court only on the ground that the application has been filed after closing of the defence evidence by the petitioner. He submits that the provisions of Section 311 Cr.P.C. are liberal in nature and summoning of witness and examination of the hand writing expert is essential for the proper decision of the case.

3. Heard.

4. On hearing counsel for the petitioner and perusing the record, it is apparent that petitioner is facing prosecution under Section 138 of the Negotiable Instrument Act. In order to prove his defence, the petitioner intends to examine the abovesaid witnesses and for that purpose he filed an application under Section 311 Cr.P.C. which was declined by the learned trial Court only on the ground that the matter has reached at the final stage and the defence evidence was already closed. It is pertinent to mention here that the Court has ample power in invoking its power under Section 311 Cr.P.C. where the facts and circumstances of the case, make out a case for invoking its power. In the case in hand, the petitioner wants to lead his defence evidence by examining the bank official/concerned Clerk of Punjab & Sind Bank and Market Committee and the hand writing expert along with relevant record as prayed for by him in the application moved under Section 311 Cr.P.C. This Court finds that the evidence sought to be produced by the petitioner is essential for the just decision of the case as he wants to examine the witnesses in support of his defence.



Although the defence evidence was closed yet taking into consideration the above said facts, this Court deems it appropriate to allow the present petition and direct the learned trial Court to afford two effective opportunities to the petitioner to examine the said witnesses who will be summoned along with relevant record as prayed for in the application.

5. In the facts and circumstances of the case, the impugned orders dated 22.10.2024 and 09.09.2024 are *set aside*. The trial Court is directed to provide two effective opportunities to the petitioner to adduce additional evidence as prayed by him subject to payment of cost of Rs.25,000/- to be paid to the complainant.

6. It is made clear that no further adjournment/opportunity will be granted to the petitioner except the two effective opportunities mentioned above for the purpose of examining the said witnesses. A cost of Rs.25,000/- to be paid by the petitioner shall be paid to the complainant before providing the said opportunities to the petitioner.

7. It is being clarified that petitioner would not be allowed to prolong the trial and if the trial Court finds the petitioner violating the directions of the Court then it would be at liberty to proceed further in accordance with law.

8. Petition is allowed in above-mentioned terms.

19.12.2024
ps-I

(RAJESH BHARDWAJ)
JUDGE

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