IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

126 **CRM-M-63185-2024**
Date of decision: 16th December, 2024

M/s Modern Engineers(India)

...Petitioner

Versus

M/s Modern Motors (India) and another

...Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. B.D. Sharma, Advocate for the petitioner.

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MANISHA BATRA, J (ORAL):-

The petitioner is seeking quashing of order dated 08.11.2024 passed by learned Judicial Magistrate Ist Class, Jalandhar in criminal complaint No. NACT-4419-2021 titled as 'M/s Modern Engineers India Vs. M/s Modern Motors and another', whereby an application filed by the petitioner-complainant under Section 311 of Code of Criminal Procedure (for short 'Code') had been dismissed.

2. The aforementioned complaint has been filed by the petitioner under Section 138 of Negotiable Instruments Act, 1881 (for short 'NI Act') against the respondents on the allegations that respondent No.2 who is sole proprietor of respondent No.1-firm had issued a cheque for a sum of Rs. 33,98,614/- in favour of petitioner to discharge legally enforceable liability of the firm and the said cheque was dishonoured. The respondent failed to

make payment of amount of cheque thereby compelling the petitioner to file the aforementioned complaint. As submitted, the proprietor of the petitioner appeared before the learned trial Court as CW-1 and his sworn statement had been recorded. He was cross-examined in detail on three different dates by the respondent. Since certain documents were got produced from him by the respondent during the course of his cross-examination and since he realised that certain entries of the account maintained by the petitioner were required to be produced for proper adjudication of the matter, therefore, he moved an application for granting permission to lead additional evidence by examining his accountant-Rakesh Kumar with computer generated account statement of miscellaneous account of his firm. Irrespective of the fact that the evidence of the petitioner is still being recorded before the learned trial Court, the learned Magistrate dismissed the application by passing the impugned order and by observing that the petitioner could not be granted permission to produce the proposed evidence as the same was within its knowledge previously also. Feeling aggrieved from this order, the instant petition has been filed.

3. Learned counsel for the petitioner has argued that the impugned order is not sustainable in the eyes of law as the proposed evidence was very much necessary for just decision of the case and was proposed to be produced within reasonable time, when its evidence is still being recorded before the learned trial Court. It is, therefore, urged that the petition deserves to be allowed.

4. I have heard learned counsel for the petitioner at considerable

length and have gone through the record carefully.

6. The petitioner-firm seeks to examine its accountant to prove its computer generated account statement for two financial years as well as the requisite certificate under Section 65-B of Indian Evidence Act. It has come on the record that the case is still at the stage of producing evidence of the petitioner. As such, the petitioner was well within its right to seek production of the proposed evidence. It cannot be stated to be a case, where the petitioner is abusing process of the Court or is trying to fill up some *lacuna* or is trying to delay the disposal of the case. The application under Section 311 of the Code had also been filed at appropriate stage. As such, I am of the considered opinion that the learned trial Court erred in declining the prayer made by the petitioners. Accordingly, the petition is allowed, the impugned order is set aside and the petitioner is granted one opportunity to produce the proposed evidence by examining its Accountant.

7. Since the main petition has been allowed, pending application, if any, is rendered infructuous.

[MANISHA BATRA]
JUDGE

16th December, 2024
Parveen Sharma

1. Whether speaking/ reasoned : Yes / No
2. Whether reportable : Yes / No