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

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**CRM-M No.367 of 2025
Date of Decision: 27.01.2025**

Mithu Ram

... Petitioner

Versus

Punjab National Bank

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

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

MANISHA BATRA, J. (Oral)

1. The instant petition has been filed by the petitioner seeking quashing of order dated 07.12.2024 passed by the Court of Judicial Magistrate 1st Class, Sangrur in Criminal Complaint No.NACT-652-2019 titled as *Punjab National Bank v. Mithu Ram* whereby an application filed by the petitioner for summoning defence witnesses had been dismissed.

2. As revealed from the record, the present petitioner has been summoned as an accused to face trial for commission of offence punishable under Section 138 of the Negotiable Instruments Act, 1881 (For short "NI Act") and is facing trial before the learned trial Court. During the course of recording evidence of the complainant, he had moved an application for summoning certain witnesses. The said application had been dismissed by the trial Court vide order dated

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28.08.2024. The petitioner approached this Court by challenging the aforementioned order. Vide order dated 14.10.2024 passed by this Court in CRM-M-50307 of 2024, the petition filed by the present petitioner had been dismissed. However, the petitioner was granted liberty to produce defence evidence in accordance with law. The petitioner thereafter moved an application (Annexure P-9) for producing by way of his defence evidence, certain documents as well as witnesses. Para No.10 of this application is relevant for the purpose which is reproduced as under:-

“10. That the following record is necessary to be summoned to prove defence and the reason of summoning of record is summarized below:

1	Files of cases filed under SARFAESI Act	The record will establish that when and why bank decided to file cases under SARFESI Act. It is also necessary to ascertain the date of taking decision for filing the case and when the case was filed. The copies of guarantee deed may be made part of the said files and reference of cheques in question can be ascertained if the aforesaid files were summoned.
2	Police complaint dated 11.06.19, 14.06.19, 28.06.19 filed by PNB and application dated 27.06.19 filed by accused.	The documents will establish strange relations between the parties. The record of these complaints will establish that when and why bank decided to take decision to file application to the police against the accused. The record of application dated 27.06.2019 is necessary to ascertain what decision was taken by

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		the Bank on the application of accused.
3	Specimen writing of Shami Bansal and Mr. Dogra	They were employees of the bank. Cw2 deposed that Shami Bansal was posted in the loan sanction during that period. It may be possible cheques were filed by him. Cheques were taken by Mr. Dogra. Specimen writing of both persons is very necessary the compare the writing with cheques in question specimen writing of all employee of loan section is necessary to compare the writing with cheques. Moreover, the applicant wants to seek the opinion of document expert in this respect. The original documents are necessary. This record is not possible to be summoned from Cw1 and Cw2 because the original record of the bank cannot be retained. The accused can only produce the document expert in defence, therefore, original record of the bank mentioned in the application is necessary for the purpose of comparison of signature.
4	Name of person who issued memos in question	The body writing of cheques and memo's looks of same person, therefore, it is very necessary to ascertain his name and compare handwriting memo's with cheques in question from document expert.
5	Original used cheques	Summoning of original cheques are



		very necessary because some cheques were also subsequently presented by bank after dispute arose between the parties. It is very necessary to compare the body writing of the cheques which were presented by the bank official subsequently.
6	Original deposit vouchers of the cheques in question	It is mandatory to fill deposit voucher when cheque are presented in the bank. It is very necessary to compare the body writing of the cheques and deposit voucher. It is necessary to ascertain who signed on the deposit voucher. Accused have not signed any deposit voucher because bank official misused the blank cheques in question.

That summing of record is very necessary otherwise accused will be prejudiced. Defence will be curtailed. The record will establish that bank official have committed cognizable offence by misusing the blank cheques. Original record is necessary for the purpose of comparison. The applicant has explained in this application about the purpose of summoning the record from the witness and comply the order passed by the Hon’ble High Court dated 14.10.2024. The applicant do not wants to delay the matter and is ready to take dasti summon for effecting service on the bank official as directed by the Hon’ble Punjab and Haryana High Court dated 14.10.2024. It is necessary to summon the following record from the bank officials:-

- a. Concerned Bank official PNB Main Brach alongwith complete file regarding visit of bank official at Dirba under Dadagiri Scheme on 16.06.19, approval of Head Office regarding visit at the premises, copies of photographs of the visit, complete file of PNB

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regarding cases filed under SARFAESI Act against Garg Bearing Company Azimgarh, Nishant, Prince, Mithu Ram and Baisakhi Ram and guarantee deeds/document executed by aforesaid persons is favour of PNB, and all police complains filed by PNB against aforesaid persons including application dated 11.06.19, 14.06.2019 and 28.06.2019 and record of application dated 27.06.19 filed by M/s Surat Ram, Baisakhi Ram Dirba and Garg Bearing Company Dirba to Chief Manager Direct PNB, Governor RBI and specimen writing of Shammi Bansal and his signatures who was posed on 02.07.2019 in PNB and list of persons who were posted in loan department on 02.07.2019 in PNB along-with their specific writing and disclose name of person who issued memo of Bank to M/s Garg Bearing Company dated 03.07.19 and his specimen writing and record of posting of Mr. Dogra w.e.f. 2013 to 2016 in PNB Main Branch Patiala Gate, Sangrur and along-with record of original used cheques of series of following holder which are in possession of bank to prove misused of cheque after inordinary delay:-

- a. Original used cheques of series 340621 which was issued to Nishant Garg on 12.12.2013 by PNB and is in possession of Bank.
- b. Original used cheques of series 634001 which was issued to Baisakhi Ram on 15.01.15 by PNB and is in possession of bank.
- c. Original used cheques of series 22201 which was issued on 01.10.13 of Mithu Ram by PNB and is in possession of bank.
- d. Original used cheques of series of 633981 which was issued to Prince on 15.01.15 by PNB and is in possession of bank.”

3. The aforementioned application had also been dismissed by the learned trial Magistrate vide impugned order dated 07.12.2024 and the petitioner has again knocked at the door of this Court by challenging the said order.

4. It is argued by learned counsel for the petitioner that the impugned order is liable to be set aside as while passing the same, the

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learned trial Magistrate ignored the fact that he was entitled to produce proposed evidence in his defence and could not be deprived of that opportunity. Learned counsel has submitted that the proposed documents as well as witnesses are very essential for the purpose of proving his innocence but the learned trial Court did not take into consideration this fact and passed a whimsical order. Therefore, it is urged that the petition be allowed and the documents as well as witnesses mentioned in detail in the abovementioned Para No.10 of the application may be allowed to be produced by him by way of defence evidence.

5. I have heard learned counsel for the petitioner at considerable length and have gone through the record.

6. As revealed from the record, the petitioner is facing trial in the aforementioned case on the allegations that a cheque for a sum of Rs.4,50,000/- as issued by him in favour of the respondent-complainant Bank in the capacity of a guarantor had been dishonoured when it was presented for realization. The petitioner seeks to summon file of cases filed by the respondent-complainant under the provisions of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act (For short "SARFAESI Act"), certain complaints filed by the respondent as well as himself, some original cheques and deposit vouchers, specimen writings of two officials of the respondent-Bank as well as names of persons who had written certain cheques memos. That apart, he also wants to direct the officials of the respondent-complainant Bank to produce some original used cheques issued to him and some other persons. The learned Magistrate

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while passing the impugned order observed that the proposed defence evidence is sought to be produced by the petitioner to establish that the writing of the cheque in question was not made by him but by some official of the Bank and such evidence could not be allowed to be produced. During the course of arguments, learned counsel for the petitioner has very fairly conceded the fact that the cheque in question bears the signatures of the petitioner. On going through the contents of the application (Annexure P-9) as filed by him, it is very much clear that the petitioner wants to bring evidence on record to show that some disputes had taken place between the officials of the Bank as well as himself and the complaints had been filed by both the sides and also to show that the cheque in question did not bear his writing. However, for that purpose, he is seeking summoning of such voluminous evidence on record which apparently has no bearing for the purpose of the controversy in the complaint which is the fact that the cheque in question was issued by him to discharge his legally enforceable liability or not. Learned counsel for the petitioner has not been able to explain as to what is the relevance of summoning files of cases under SARFAESI Act, police complaints, specimen writings of some particular officials of the Bank, details of their names and production of original cheques. No doubt, an accused is entitled to produce evidence in his defence. The allegations against him are that he had issued a cheque which has been dishonoured. Since he has not disputed the factum of signing of the cheque and as it appears to this Court also that the proposed evidence is sought to be produced by him only to collect evidence that the writing of the cheque was

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not made by him but by some officials of the respondent-Bank on account of some dispute between the Bank and himself, I am of the considered opinion that the seeking of proposed evidence is nothing but an abuse the process of law since it is apparent on record that the petitioner is seeking production of such evidence which ultimately would not have any bearing on the merits of the complaint and would amount to further delay in disposal of the complaint which is already six years old complaint and further in view of the fact that the proposed evidence is sought to be summoned by taking absolutely vague pleas, I am of the considered opinion that the learned Magistrate rightly declined the prayer of the petitioner to produce the same on record. Accordingly, finding no merit in the petition, the same is dismissed.

27.01.2025
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(MANISHA BATRA)
JUDGE

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