



CRM-M No.1385-2025

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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M No.1385-2025 (O&M)

Date of Decision: 14.01.2025

Gurbhinder Singh

.....Petitioner

Versus

M/S Cholamandalam Investment and Finance Company Limited through
authorised representativeRespondent**CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU****Present:** Mr. Piyush Setia, Advocate for the petitioner.

MAHABIR SINGH SINDHU, J.

Present petition has been filed under Section 528 of Bharatiya
Nagarik Suraksha Sanhita, 2023 (for short 'BNSS'), *inter alia* for setting
aside the impugned order dated 08.07.2024 (P-6) passed by learned Judicial
Magistrate First Class, Abohar in NACT No.370 of 2022 titled as *M/s
Cholamandalam Investment and Finance Company Limited vs. Gurbhinder
Singh* whereby petitioner's application under Section 311 of Code of
Criminal Procedure, 1973 (for short, 'Cr.P.C.') for recalling CW-1 Lovedeep
Singh for cross examination, was dismissed.

2. Brief facts

2.1 Brief facts of the case, as set out in the petition, are that
examination-in-chief of CW-1 Lovedeep Singh was completed on
28.10.2024 and on request of learned counsel of petitioner, his cross-
examination was deferred to 13.11.2024. Since, CW-1 did not turn up for
the next two dates, his cross-examination was partly recorded on 04.12.2024

and matter was deferred to 18.12.2024 for further cross-examination. On



18.12.2024, petitioner's counsel was busy before the Co-ordinate Court and thereafter he came to know that cross-examination of CW-1 was treated as nil and authorised person of complaint-company (respondent) closed its evidence. Feeling aggrieved, petitioner moved application dated 07.01.2025 under Section 311 Cr.P.C. for recalling of witness CW-1 Lovedeep Singh for cross-examination, but the same was dismissed vide impugned order dated 07.01.2025 (P-6).

3. CONTENTIONS ON BEHALF OF PETITIONER

3.1 Contends that on 29.08.2024 CW-1 Lovedeep Singh appeared for the first time, but on that day, his examination-in-chief was partly recorded and matter was adjourned to 13.09.2024, however he did not turn up. So his examination-in-chief was completed on 28.10.2024 and on the request of learned counsel of petitioner, cross-examination was deferred on 13.11.2024. Again CW-1 did not come present for the next two dates and only on 04.12.2024, his cross-examination could be partly recorded and matter was deferred to 8.12.2024.

3.2 Further contends that on 18.12.2024, petitioner's counsel could not turn up as he was busy before the Co-ordinate Court, but despite that, cross-examination of CW-1 was treated as 'opportunity given, NIL' and authorised person of complaint-company (respondent) closed the evidence.

3.3 Vehemently contends that learned trial Court did not consider the fact that examination-in-chief of CW-1 was completed only on 28.10.2024 and after that, said witness did not turn up for two dates. Also contends that petitioner's counsel has only availed two opportunities. Further contends that in the application under Section 311 Cr.P.C., petitioner has specifically averred that some important questions were left to be asked



the petitioner's counsel could not reach the Court in time.

4. Heard learned counsel for the petitioner and perused the paper book.

5. **DISCUSSION AND OBSERVATIONS**

5.1 Before proceeding further, it is necessary to recapitulate the relevant part of the impugned order here-as-under:

“The present application has been filed by the accused seeking permission to cross examine the complainant by way of recalling CW1. On the other hand, counsel for complainant contended that the present application has been filed only to delay the proceedings of the present complaint. I have perused the file and perusal of file shows that on 04.12.2024 CWI Lovedeep Singh was cross examined in length and his further cross examination was deferred at the request of counsel for accused for 18.12.2024. On 18.12.2024, CWI was present for cross examination along with record but counsel for accused did not come present to cross examine the CWI and after awaiting counsel for accused for sufficient time, the cross examination of CWI was treated as nil. Since, sufficient time and opportunities have been granted to the accused to cross examine the CWI but counsel for accused has failed to conclude the cross examination of the CWI despite availing several opportunities for reasons best known to him. No grounds are made out for allowing the present application. The right of speedy trial of the complainant cannot be ignored specifically when the conduct of the accused has been dilatory. So in these circumstances, I do not find any justification for allowing the present application. Keeping in view the above said discussion, the present application stands dismissed.”

5.2 Bare perusal of the above extract reveals that on 04.12.2024, CW-1 Lovedeep Singh was cross-examined at length and his further cross-examination was deferred to 18.12.2024, on the request of learned counsel for petitioner. Still further, on 18.12.2024, CW-1 was present for cross examination along with record, but learned counsel for the petitioner did not come forward to cross-examine the said witness and after waiting for sufficient time, cross-examination of CW-1 was treated as ‘opportunity

given, NIL’ by learned trial Court. Therefore, this Court does not find any



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illegality or irregularity committed by learned JMIC while passing the order impugned; rather it seems that the above application has been filed just to delay the proceedings before the learned trial Court.

Moreover, the proceedings under Section 138 of Negotiable Instruments Act, 1881 are *quasi* criminal and summary in nature; hence not to be delayed on these hyper-technicalities.

6. In view of above, this Court does not find any merit in the present petition and the same deserves to be dismissed.

7. Ordered accordingly.

8. Above observations be not construed as an expression of opinion on merits of the pending complainant, in any manner.

Pending application(s), if any, shall also stand disposed off.

14.01.2025

Rajeev (rvs)

(MAHABIR SINGH SINDHU)

JUDGE

Whether speaking/reasoned

Yes

Whether reportable

Yes