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

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CRM-M No.2803 of 2025
Date of Decision: 28.01.2025

M/s Meenakshi Apparels through its Prop.
Rakesh Khanna and another ... Petitioners

Versus

M/s Atam Vallabh Marketing and another ... Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Navkesh Singh Goraya, Advocate,
for the petitioners.

Mr. Vaibhav Narang, Advocate,
for the respondents.

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MANISHA BATRA, J. (Oral)

1. Memorandum of Appearance has been filed on behalf of the respondents and the same is taken on record.

2. The instant petition has been filed by the petitioners seeking quashing of order dated 12.12.2024 passed by the Court of Judicial Magistrate, 1st Class, Ludhiana in Criminal Complaint bearing No.COMA/7349 of 2017 titled as M/s Atam Vallabh Marketing Co. and another v. M/s, Meenakshi Apparels and another, whereby an application filed by the petitioner-accused under Section 348 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (For short "BNSS") (which is pari materia with Section 311 of the Code of Criminal Procedure) for placing on record a form i.e. VAT 18 Form relating to the Department of Excise and Taxation and pertaining to the firm of complainant, had been dismissed.

3. The petitioner herein has been summoned for and is facing trial for commission of offences punishable under Section 138 of the Negotiable Instruments Act, 1881 (For short "NI Act") in the aforementioned complaint. During the pendency of the complaint and at the stage of producing defence evidence, he moved an application for granting him permission to produce by way of additional evidence, the aforementioned VAT 18 Form. He had already summoned a witness from the office of Excise and Taxation Commissioner along with the record pertaining to the period from 01.05.2017 to 31.06.2017 of the complainant-firm. The said witness who appeared as DW-5 had produced the record of VAT 23 return of the goods as submitted by the respondent-complainant but did not produce the VAT 18 Form. It is submitted that infact goods had been returned by the petitioner to the respondent-complainant and Form VAT 18 was to be given by the respondent but the record is not showing so. It is submitted that production of Form VAT 18 is very essential for just decision of the case and that is why he had made prayer for summoning the witness of the concerned department for producing the same but the learned trial Court has wrongly declined the same. While stressing that the impugned order is illegal as opportunity of producing defence evidence has been denied to him, it is urged that the same is liable to be set aside and he deserves to be given opportunity to summon the proposed witness with the abovesaid Form.

4. Learned counsel for the respondents, on the other hand, has argued that there is no illegality or infirmity in the impugned order which warrants interference by this Court since the petitioner had been seeking

opportunities to lead defence evidence from the last more than two and half years. He has moved several applications for producing the defence evidence. His defence evidence already stands closed even arguments have been heard. While stressing that the present petition has been filed only to delay the disposal of the complaint which is quite old and to abuse the process of law, it is urged that the same does not deserve to be allowed.

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

6. On a perusal of the material placed on record and on giving due deliberations to the contentions raised by both the sides, I am of the considered opinion that the petition does not deserve to be allowed. A perusal of the record reveals that the petitioner had been granted as more than 30 opportunities to lead evidence in his defence for over about a period of two and half years. His defence evidence already stands closed. He moved applications for producing defence evidence not only once but five times. Six witnesses have already been examined by him including witnesses from the Department of Excise and Taxation as well as GST Department. Even arguments have been advanced in the main case. The learned trial Magistrate after considering all these facts has passed a detailed and well reasoned order declining the prayer as made by the petitioner and in view of the above discussed facts, in my considered opinion, no ground has been made out for giving a contrary opinion especially in view of the fact that the petitioner has not been able to justify as to what relevance the proposed defence evidence would be having for the purpose of this case.

Even otherwise, the main case is eight year old case falling under the category of action plan cases. It is apparent that the petitioner is playing delaying tactics.

7. In view of the discussion as made above, I am of the considered opinion that the petition does not deserve to be allowed. Accordingly, the same is dismissed.

(MANISHA BATRA)
JUDGE

28.01.2025
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Whether speaking/reasoned Yes/No
Whether reportable Yes/No