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

CRM-M-2684-2025

Date of decision: 28.01.2025

Bikramjeet Singh

....Petitioner

Versus

Jaspal Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**Present:** Ms. Puja Chopra, Advocate
for the petitioner.**HARPREET SINGH BRAR, J. (ORAL)**

The present petition has been filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeking quashing of orders dated 02.12.2024 and 19.12.2024 passed in complaint bearing No. COMA 993/2020 dated 13.03.2020 titled as 'Jaspal Singh Vs. Bikramjeet Singh' under Section 138 of the Negotiable Instruments Act, passed by the learned Judicial Magistrate 1st Class, Patiala (Annexures P-2 & P-3, respectively), whereby, the cross examination of the complainant (CW-1) has been ordered to be treated as Nil.

Learned counsel for the petitioner *inter alia* contends that vide the impugned order, the cross examination of the complainant has been treated as Nil due to the non-appearance of the counsel for the accused. She further submits that the counsel for the petitioner got late and reached the trial Court by 02:45 P.M. and by that time, the order (Annexure P-2) has already been passed. Thereafter, counsel for the petitioner immediately filed an application for recalling of the aforesaid order but the same was dismissed vide order dated

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19.12.2024 (Annexure P-3). The absence of counsel for the petitioner is not intentional rather he got late due to the farmers' protest and she further refers to Annexure P-3 and submits that the learned proxy counsel was present and counsel for the petitioner appeared 45 minutes after the lunch. Even after noticing the aforementioned facts, the application filed by the petitioner was dismissed and in case, the petitioner is not allowed to cross-examine the complainant, it will cause great prejudice to the petitioner and the petitioner would be denied fair opportunity to defend his case.

Having heard learned counsel for petitioner and on perusal of the record, this Court finds force in the arguments advanced by learned counsel for the petitioner.

Procedure is handmaid of justice and its goal is to make the ends of justice meet. In that vein, it must be understood that denial of an opportunity to the accused to present the best available evidence or have an effective and substantial hearing, in order to prove his defence, would amount to a direct violation of his right to free and fair trial enshrined under Article 21 of the Constitution of India as well as the principles of natural justice.

In view of the discussion above and without issuing notice to the respondent in order to save time of the Court and to avoid litigation expenses to be incurred on the part of the respondent, the impugned order dated 02.12.2024 is hereby set aside and the present petition is disposed of subject to payment of Rs.2,000/- as costs to the respondent with a direction to the learned Judicial Magistrate 1st Class, Patiala, to grant one effective opportunity to the petitioner to cross examine the complainant/respondent.



Petitioner undertakes to not seek another adjournment or delay the trial in any manner and submits that he would complete his cross examination on the date fixed before the learned trial Court.

(HARPREET SINGH BRAR)
JUDGE

28.01.2025
Neha

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