



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

CRM-M-3771-2025
Date of decision: 23.01.2025

Pawan Kumar

...Petitioner

Versus

M/s Radha Madhav Suppliers and another

...Respondents

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Naveen Bawa, Advocate for the petitioner.

KARAMJIT SINGH, J. (ORAL)

1. The present petition has been filed by the petitioner under Section 528 of BNSS seeking quashing of order dated 13.11.2024 Annexure P-8 passed by the Court of Judicial Magistrate Ist Class, Ludhiana in criminal complaint having COMA-30062-2019 titled Pawan Kumar Vs. M/s Radha Madhav Suppliers and another whereby the evidence of the complainant is closed by order.

2. The counsel for the petitioner submits that the aforesaid criminal complaint is filed by the petitioner against respondents wherein respondents were summoned to face trial under Section 138 NI Act. That earlier the respondents were declared as proclaimed persons vide order dated 04.03.2022 Annexure P-3. However, subsequently, the respondents started appearing in the Court and notice of accusation was served to which the respondents did not plead guilty. Thereafter, the parties made efforts to effect compromise and the matter was referred to Mediation Centre, Ludhiana vide order Annexure P-6 dated 05.01.2024 passed by the learned



trial Court. Thereafter, the compromise Annexure P-9 dated 09.05.2023 was effected, however, later on the respondents failed to act upon the said compromise and the trial Court kept on adjourning the complaint case on the request of the counsel for the parties and finally, impugned order was passed. The counsel for the petitioner further submits that as earlier talks with regard to compromise were going on and after the execution of compromise deed Annexure P-9 dated 09.05.2023, the dates were being taken by the parties to act upon the terms and conditions of the said compromise and it being so, the petitioner did not turn up before the trial Court for his cross examination. There was no intention on the part of the petitioner to delay the proceedings before the trial Court. It is further submitted that it were respondents who retracted from compromise Annexure P-9. So, prayer is made that one opportunity be given to the petitioner to tender himself for the purpose of his cross examination.

3. Where a party is acting in a casual manner and refusing to make the witness available for cross examination on repeated occasion, without due justification, the Court may close the party's right to lead evidence. However, in the instant case, it appears that earlier the talks with regard to compromise were going on between the parties which were materialized and parties executed compromise deed Annexure P-9, as per which respondent No.2 was to pay amount of Rs.9 lacs in two installments. However, it appears that the respondents failed to honour the terms and conditions of said compromise deed and back tracked. In the given circumstances, the petitioner cannot be penalized by closing his evidence by order, even if, he failed to turn up for his cross examination on the



concerned dates.

4. This Court is of the view that the right to lead evidence in support of their respective stands is a valuable right in criminal litigation and the said right should not be lightly curtailed.

5. In light of the above discussion, this Court is of the view that keeping in mind the interests of substantial justice, the petitioner ought to be granted one opportunity to lead his evidence.

6. For the foregoing reasons, the present petition is allowed and the impugned order dated 13.11.2024 Annexure P-8 is set aside with direction to the petitioner to appear before the trial Court on the next date fixed in the trial for his cross examination by the opposite counsel, subject to cost of Rs.7500/- to be deposited by the petitioner with the District Legal Services Authority concerned, on or before the next date fixed in the trial, failing which the present petition shall be deemed to be have been dismissed.

7. Keeping in view the nature of order being passed, no notice is required to be issued to the respondents No.1 and 2. However, if they feel dissatisfied with this order, they may move an application to recall the same.

23.01.2025

Yogesh

(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned:-
Whether reportable:-

Yes/No
Yes/No