

2025:PHHC:018160



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

142

CRM-M-6470-2025 (O&M)
Date of decision: 06.02.2025

Kapil Batra Production and another**...Petitioners****Versus****Gurpreet Singh and another****...Respondents****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Pranav Handa, Advocate
for the petitioners.

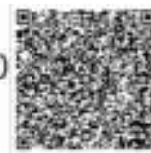
Mr. Amit Dhawan, Advocate
for respondent No. 1.

MANISHA BATRA, J. (Oral)

1. Prayer in this petition, filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023, is for quashing of order dated 18.01.2025, passed by the Court of learned Judicial Magistrate First Class, Jalandhar (*hereinafter referred to as 'learned trial Court'*) in Criminal Complaint bearing NACT No. 2049 of 2020, titled as ***Gurpreet Singh vs. Kapil Batra Productions and another***, filed under Section 138 of the Negotiable Instruments Act, 1881 (*for short 'N. I. Act'*), whereby an application filed by the petitioner for summoning certain witnesses/material in his defence had been partly allowed, while declining the prayer made by him for summoning certain witnesses as well as documents.

2. Brief facts of the case relevant for the disposal of the present petition are that respondent No. 1 has filed the aforesaid complaint against petitioner No. 1-firm and petitioner No. 2, being its proprietor, under Section

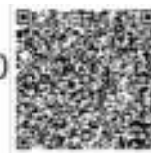
2025:PHHC:018160



138 of the N. I. Act. The petitioner has been summoned and is facing trial as an accused in the aforementioned complaint. The case is at the stage of producing defence evidence. The petitioner filed an application (Annexure P-3) before the learned trial Court making prayer for summoning some record and witnesses as mentioned in detail in paragraph Nos. 3(a) to 3(h) of the application. After hearing arguments on this application, the learned trial Court passed the impugned order, thereby allowing the prayer made by the petitioner to summon witnesses mentioned at paragraph Nos. 3(a), (b) and (g) of the application but declined to summon the witnesses whose names have been mentioned in paragraph Nos. 3(c), (d), (e), (f) and (h) as well as the record sought to be summoned by such witnesses. It will be proper to reproduce the relevant paragraphs of the impugned order passed by the learned trial Court, which read as under:

“Accused have furnished the list of defence witnesses in which nine (09) defence witnesses have been mentioned. Regarding witness mentioned at Sr.No.(a and b) i.e. handwriting expert and forensic expert to examine pronote, cheque qua the age of ink and validity of signature and officer concern of General Post Office with regard to issuance of postal receipts which are printed and hand written, the same stands allowed as these witnesses are relevant to decide the present complaint case. With regard to summoning of witnesses (c & d) i.e. record of income tax department reflecting the deposit of TDS in favour of Gurpreet Singh and summoning of Officer of bank concerned wherein the complainant had been getting back his TDS refund is declined as no ground regarding any TDS has been taken during the notice of accusation,

2025:PHHC:018160



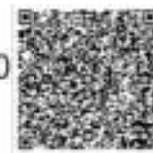
cross examination of complainant and at the time of recording of statement of accused under section 313 Cr.P.C. and moreover, these are not relevant to decide the case.

With regard to summoning of witnesses mentioned at Sr.No.(e and f) with regard to flight record pertaining to traveling of Rajan Batra to Mumbai and its return on 28.02.2020 and officer concerned of building/flat of Rajan Batra at Mumbai with record of CCTV Camera showing presence of Rajan Batra at Mumbai from 20.02.2020 till 28.02.2020 is also declined as alleged signatures on the cheque in question is of Kapil Batra and not Rajan Batra. Moreover, the Hon'ble High Court has stayed the matter regarding the accused Rajan Batra and these are not relevant witnesses for just decision of the case.

With regard to witnesses mentioned at Sr.No.(g) i.e. accused Kapil Batra and Rajan Batra who wanted to give evidence in the present case and they are allowed to depose in the present case. However, accused are directed to file application under section 315 Cr.P.C. if they wanted to come into witness box as defence witness. With regard to summoning of witness mentioned at Sr.No.(h) i.e. record of police of Anti Fraud Department pertaining to complaints filed by Kapil Batra and Rajan Batra against Gurpreet Singh is declined as it is not relevant to decide the complaint case and moreover no ground has been taken during the cross examination of witnesses or at the time of recording statement of accused under section 313 Cr.P.C. and these are not relevant witnesses for just decision of the case.

Now to come up on 29.01.2025 for defence evidence of accused. Accused are directed to deposit the PF/DM of the witnesses within seven days. However, it is

2025:PHHC:018160

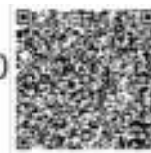


made clear that before examining any defence witness, all the costs imposed upon the accused must be cleared by him. Arguments on application under section 143-A of NI Act will also be heard on the date fixed.”

3. It is argued by learned counsel for the petitioner that the impugned order is not sustainable in the eyes of law to the extent to which the learned trial Court had declined the prayer made by the petitioner for summoning certain witnesses as well as record since the petitioner has a right to adduce evidence in support of his defence. It is submitted that the proposed defence evidence is very much necessary not only for just decision of the case but also for proving the pleas as taken by the petitioner in his defence before the learned trial Court and by declining the same, a great prejudice has been caused to him. With these broad submissions, it is urged that the petition be allowed, the impugned order be set aside to the extent to which the prayer made by the petitioner had been declined and the learned trial Court be directed to summon the witnesses/record as mentioned in the application in *toto*.

4. *Per contra*, learned counsel for respondent No. 1 has argued that there is no illegality or infirmity in the impugned order as the proposed defence evidence was not at all relevant for deciding the controversy in the complaint, which is a complaint relating to dishonour of a cheque. It is submitted that the petitioner has been filing frivolous applications only with an intent to delay the disposal of the complaint as there is strong possibility of an order of conviction being passed against him. It is further argued that the learned trial Court had allowed the production of certain defence

2025:PHHC:018160

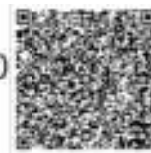


evidence, which was considered to be relevant for the purpose of proper decision of the complaint. A well reasoned order has been passed by the learned trial Court, which warrants no interference and accordingly, it is urged that the petition is liable to be dismissed.

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

6. On a perusal of the application (Annexure P-3), it is revealed that the petitioner sought summoning of voluminous record as well as witnesses in his defence. The witnesses proposed to be summoned by him are Handwriting and Forensic Expert, officials from General Post Office, officials from some Bank, some concerned official of the building wherein co-accused Rajan Batra resided in Mumbai and record from Income Tax Department as well as Anti Fraud Department of Police. The learned trial Court granted him permission to produce in his defence Handwriting and Forensic Expert and official from General Post Office. However, prayer made by him to summon witnesses from Income Tax Department to show the proof of deposit of TDS in favour of the complainant and summoning of record of concerned Bank to show the refund of TDS by the complainant had been declined. The learned trial Court also declined the prayer made by the petitioner for summoning witnesses for proving record relating to travel of co-accused Rajan Batra. Lastly, the prayer made by the petitioner for summoning record from Anti Fraud Department of Police had also been declined. On a careful perusal of the contents of the application (Annexure P-3) and the impugned order, I am of the considered opinion that the learned trial Court committed no error in declining the prayer made for summoning the wit-

2025:PHHC:018160



nesses mentioned at paragraph Nos. 3(e) and (f), who were sought to be summoned for proving the travel record of co-accused Rajan Batra and some record showing presence of said accused at Mumbai during some relevant period of time as the proposed evidence would certainly have no bearing for the purpose of just decision of the complaint filed under Section 138 of the N. I. Act by the complainant. The petitioner cannot be permitted to exhaust the precious time of the Court for producing such evidence which ultimately would be of no importance for the purpose of deciding the controversy in the complaint. Similar is the position with regard to summoning of record from Anti Fraud Department of Police, wherein some complaints allegedly lodged by the petitioner against the complainant were filed because production of such record would also not help either the parties or the Court for the purpose of proper decision of the complaint. However, so far as the proposed summoning of the witnesses mentioned in paragraph Nos. 3(c) and (d) is concerned, the petitioner sought to summon record from Income Tax Department to show that TDS had been deposited in favour of the complainant by him/his firm and record of the petitioner to show that the complainant had received such TDS refund. The case of the petitioner is that the complainant was in fact his employee and the cheque in question had been misused by him. The proposed evidence in the form of witnesses mentioned in paragraph Nos. 3(c) and (d) might be relevant for this purpose.

7. As such, while considering the fact that the petitioner, being an accused, is entitled to fair trial and to produce relevant evidence in his support mentioned in aforesaid paragraphs, the present petition is partly allowed and the impugned order is modified to the extent that the permission to sum-

2025:PHHC:018160



mon the witnesses mentioned in paragraph Nos. 3(c) and (d) is granted to the petitioner. However, it is directed that the petitioner would summon them and ensure their presence by availing not more than three opportunities.

06.02.2025

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No