



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

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CRR-318-2025**Decided on : 06.02.2025**

Jagdamba Prasad

... Petitioner

Versus

Sunny Anand

... Respondent

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH**PRESENT:** Mr. Deep Inder Singh Walia, Advocate for the petitioner.

SANJAY VASHISTH, J. (Oral)

1. Present revision petition has been filed against the impugned order dated 10.12.2024 passed by learned Judicial Magistrate First Class, Ludhiana, whereby application moved by the petitioner for recalling of CW-1 Sunny Anand for further cross examination was dismissed.

2. Learned counsel for the petitioner submits that petitioner is facing the proceedings for committing an offence under Section 138 of the Negotiable Instruments Act and prayer made for recalling of CW1-Sunny Anand, was declined by the Court. While rejecting the application, learned Trial Court has observed that no reason has been assigned in the application, therefore, it is total misuse of the process of law. It is also recorded that the cross-examination of witness was completed on 30.04.2024, whereas, application was moved on 09.08.2024. Infact, the case is at a stage of recording of witnesses and allowing the prayer, would neither cause any delay in the proceedings at the instance of the petitioner/accused nor prejudice the respondent-complainant.

3. This Court has noticed from the zimni orders placed on record, that on various occasions i.e. 13.09.2023 and 12.10.2023, 06.12.2023 and 18.01.2024 and 21.02.2024 none of the witnesses of the complainant side was present in Court and by referring to the said orders, petitioner's counsel

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submits that it was complainant's conduct that led to prolongation of trial, thereby affecting the rights of the accused and none else.

4. Considering all the circumstances and petitioner's prayer made for the purpose of deciding the issue before this Court, this Court do not find it necessary to call for the other side as the petition can be disposed of at this stage itself by taking into consideration the interest of both the sides including respondent-complainant.

5. After reviewing all the aspects and referred zimni orders, it is evident that the complainant himself failed to produce the witness many a times before the trial Court, resulting in repeated adjournment of the proceedings. Therefore, the prayer made by the petitioner is allowed subject to costs of Rs.10,000/-, which shall be deposited by the petitioner in advance with the old age home of the area concerned.

6. However, it is made clear that one effective opportunity is to be afforded to the petitioner to conduct cross-examination of the complainant-witness on the date which would be fixed by learned Trial Court.

7. Let copy of this order be forwarded to the Court concerned.

(SANJAY VASHISTH)
JUDGE

February 06, 2025*rashmi*

Whether speaking/reasoned: *Yes/No*
Whether Reportable: *Yes/No*