2025:PHHC:028421

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR-525-2025 (O&M)
Date of decision: 27.02.2025

Dhirender Gaba ..... Petitioner

Versus

Rahul Agarwal ..... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Ms. Aakriti Mittal, Advocate, for the petitioner (through Video Conferencing).

MANJARI NEHRU KAUL, J. (ORAL)

CRM-8181-2025

This is an application for condonation of delay of 32 days in filing the present criminal revision petition.

For the reasons stated in the application, delay of 32 days in filing the present criminal revision petition is condoned.

CRR-525-2025

The petitioner is assailing the order of the learned trial Court, dated 21.10.2024, passed by learned Judicial Magistrate First Class, Gurugram, whereby the application for summoning an Income Tax official to produce the Income Tax Returns (ITRs) of the complainant was dismissed.

Learned counsel for the petitioner contends that the learned trial Court failed to appreciate the legal principles governing the issue. It is submitted that the complainant-respondent has alleged an investment of Rs.70

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lakhs in the Company of the petitioner. However, despite repeated requests, the complainant has not furnished his ITRs, which, according to the petitioner, would be crucial in determining the financial capacity of the complainant to make such an investment.

It is further argued that, in the absence of voluntary disclosure by the complainant, the petitioner had no option but to seek the summoning of an Income Tax official to produce the relevant records. However, the trial Court erroneously dismissed the application on the ground that it was a dilatory tactic, without adequately appreciating the necessity of such evidence for the defence of the petitioner.

Having heard learned counsel for the petitioner and perused the record, this Court finds no merit in the instant petition. It is a well settled principle of law that once the financial capacity of the complainant is questioned, the initial burden shifts to the complainant to demonstrate his ability to make the alleged payment. However, there exists no legal mandate compelling the complainant to produce any specific document, including his ITRs, to substantiate his financial standing. The complainant retains the discretion to lead evidence in support of his case as he deems appropriate.

In the present case, the complainant has chosen not to produce his ITRs to substantiate his financial capacity. Whether this omission affects the probative value of his claim, is a matter to be adjudicated by the trial Court based on the totality of the evidence presented. The petitioner cannot insist on compelling the production of the ITRs of the complainant, particularly when the complainant himself has opted not to place reliance upon them.

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The learned trial Court has rightly concluded that the application of the petitioner for summoning the income tax official was unwarranted. Such an attempt does not constitute a legitimate legal necessity. The discretion exercised by the trial Court in rejecting the application is neither perverse nor arbitrary, warranting interference under the revisional jurisdiction of this Court.

Accordingly, this Court finds no infirmity in the impugned order. The petition is devoid of merit and is, therefore, dismissed.

However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

February 27, 2025
sanjeev

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

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