



CRM-M-20544-2025

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

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CRM-M-20544-2025

Date of decision: 21st April, 2025

Sangeeta

...Petitioner

Versus

M/s AVA Marketing

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Arjun Atri, Advocate for the petitioner.

MANISHA BATRA, J (ORAL):-

Prayer in this petition is made for setting aside the order dated 18.09.2024 passed by the learned Judicial Magistrate First Class, Gurugram in criminal complaint No. 41412/2022 titled as '*M/s AVA Marketing Vs. Sangeeta*' filed under Section 138 of Negotiable Instruments Act, 1881, whereby the bail of the petitioner was cancelled, bailable warrants were issued against him and the evidence of complainant was concluded without granting opportunity to the petitioner.

2. As culled out from the record, the petitioner is facing trial for commission of offence punishable under Section 138 of NI Act before learned trial Court. On 18.09.2024, hearing of the case was fixed for cross-examination of complainant by the petitioner's counsel. Neither the petitioner nor her counsel appeared to conduct cross-examination despite the fact that opportunity to conduct the same had been given to the petitioner on moving application under Section 145(2) of the NI Act. Since the petitioner



failed to appear and cross-examine the complainant, the evidence of complainant was ordered to be concluded. The petitioner has placed on record copy of order dated 13.02.2025, which shows that he has surrendered before the learned trial Court on that date and was admitted to bail. Thereafter, the case was adjourned for summoning of defence witnesses by the petitioner in his defence evidence.

3. It is *inter alia* submitted by learned counsel for the petitioner that she herself had moved application under Section 145(2) of NI Act for granting opportunity to her to cross-examine the complainant, who had appeared as a witness. On 18.09.2024, she was very much present in the Court for cross-examination of the complainant. Her counsel had started demanding money to settle the dispute and on showing inability by her, he had represented to the complainant that the case had been adjourned by trial Court. It is submitted that not conducting of cross-examination of the complainant by the petitioner was due to the above stated reason which was beyond her control. Conducting of cross-examination of petitioner is very much essential for just decision of the case. The petitioner cannot be deprived of opportunity to do so and therefore, it is urged that the petition may be allowed.

4. On going through the record, it is revealed that on 18.09.2024, the petitioner had appeared before the learned trial Court and even her signatures were appended on the court file but subsequently did not turn up thereby compelling the learned trial court to cancel her bail and close the opportunity of cross-examination of the complainant. The complainant has now surrendered before the learned trial Court. The reasons as explained by



her show that her absence on 18.09.2024 was not intentional. Rather, she had moved application under Section 145(2) of the NI Act for cross-examining the proprietor of the respondent-complainant, who obviously is the most material witness of the case by depriving the petitioner to cross-examine this witness, obviously prejudice would be caused to him. His cross-examination is required to be conducted for just decision of the case. As such, in my considered opinion, the petitioner deserves to be granted an opportunity to cross-examine the complainant. Accordingly, the petition is allowed. Direction is given to learned trial Court to ensure the presence of the complainant and grant one effective opportunity to the petitioner to cross-examine him.

5. Since the main petition has been disposed of, pending application, if any, is rendered infructuous.

[MANISHA BATRA]
JUDGE

21st April, 2025

Parveen Sharma

1. *Whether speaking/ reasoned*
2. *Whether reportable*

: *Yes / No*
: *Yes / No*