



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

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CRM-M-24767-2025
Decided on : 09.05.2025

Sukhwant Singh

. . . Petitioner(s)

Versus

Dalvar Singh

. . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Lakshay Bector, Advocate (through V.C.)
for the petitioner(s).

SANJAY VASHISTH, J. (Oral)

1. By way of present petition filed under Section 528 of BNSS, 2023, petitioner is seeking quashing of order dated 17.12.2024 (Annexure P-1), passed by learned Judicial Magistrate First Class, Ludhiana, vide which, cross-examination of the complainant has been treated as “NIL” as well as the order dated 19.03.2025 (Annexure P-2) vide which, application dated 10.02.22025 (Annexure P-4) filed by the petitioner for recalling of order dated 17.2.2024 (Annexure P-1) in complaint case, i.e., COMA/2139/2019, titled as, “Dalvar Singh v. Sukhwant Singh Etc.” (Annexure P-3), has been dismissed.

2. Learned counsel for the petitioner contends that petitioner, who is accused in the complaint case filed u/s 138 of the Negotiable Instruments Act, 1881 (in short, ‘NI Act’), prays that on account of the fact that the compromise talks were going on, his counsel did not deem it appropriate to conduct the cross-examination.

Further submits that accused (petitioner herein) was completely dependent upon the advice of the counsel, representing him before the trial



Court. On 17.12.2024, when the opportunity granted to the petitioner for cross-examining the complainant was treated as “NIL”, has resulted into the prejudicing and closing all of the rights, *viz-a-viz*, the petitioners.

3. Learned counsel also submits that petitioner (accused) is ready to admit his fault of not cross-examining the complainant, within the reasonable time. However, further submits that in case one more opportunity is granted, he is ready to compensate the complainant.

It is also informed that the disputed cheque amount is very heavy, i.e., Rs.20.00 lacs, therefore, not allowing of cross-examination, even because of the fault of the petitioner himself, would definitely cause irreparable loss to him at the final stage of the trial, thereby prejudicing his rights.

4. Heard.

5. After perusing the case file, this Court is of the view that the present petition can be disposed of *in limine*, and this would not prejudice the rights of the respondent.

6. There is no dispute that in case the statement already recorded by the complainant at the preliminary stage of the case, is taken into consideration, same would not term as a complete evidence in accordance with law, because the petitioner (accused) has failed to cross-examine the complainant, due to the reasons mentioned in the foregoing paragraphs.

7. Justification now expressed before this Court seems to be genuine and convincing, as there was no reason for him to not to cross-examine the complainant, it was just because of his total dependency upon his counsel, representing before the trial Court. Besides, it is noticeable that application filed by the petitioner for recalling of impugned order dated 17.12.2024, has also been dismissed by the trial Court, vide order dated 19.03.2025 (Annexure



P-2).

Therefore, this Court is of the view that prayer made in the present petition is worth accepting, and therefore, same is allowed and the impugned order dated 17.12.2024 (P-1) and 19.03.2025 (P-2) are hereby set-aside and the petitioner is afforded one effective opportunity to cross-examine the complainant before the conclusion of the trial proceedings.

However, this liberty shall be available to the petitioner (accused), only after making payment of cost amount of Rs.25,000/-, which shall be paid by the petitioner (accused) to the respondent (complainant), in advance, before conducting the cross-examination.

8. With aforementioned observations, **present petition stands disposed of.**

(SANJAY VASHISTH)
JUDGE

May 09, 2025

J.Ram

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