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

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CRR No. 1491 of 2025 (O&M)

Date of decision: 02.06.2025

Bhagat Singh**...Petitioner****Versus****Rajinder Singh****...Respondent****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Deepender Pratap Singh, Advocate
for the petitioner.

MANISHA BATRA, J. (Oral)

1. The present revision petition has been filed by the petitioner/accused for setting aside the order dated 07.05.2025, passed by the trial Court of learned Judicial Magistrate First Class, Faridabad in criminal complaint bearing NACT No. 7035 of 2019, titled as ***Rajinder Singh vs. Bhagat Singh***, whereby the cross-examination of the complainant has been closed by Court order.

2. Brief facts of the case relevant for the purpose of disposal of the present are that the aforesaid complaint/application has been filed by the respondent against the petitioner under Section 138 of the Negotiable Instruments Act, 1881. The case was fixed for 07.05.2025 and the remaining cross-examination of the respondent/complainant was to be conducted. However, neither the petitioner nor his counsel appeared for conducting remaining cross-examination of the respondent, who is a senior citizen and was sitting in the Court premises since morning on that day. On the request of proxy counsel for the petitioner, the matter was fixed to be taken up at 02:00

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PM on that day but even then, none appeared for the said purpose. Consequently, the learned trial Court, while observing that the case was pending for cross-examination of the complainant since 15.10.2024 and even cost of Rs.1000/- was imposed upon the accused on 21.04.2025, which was in fact not deposited by him, closed the cross-examination of the respondent/complainant by passing the impugned order.

3. Learned counsel for the petitioner has submitted that on 07.05.2025, when the case was taken up by the learned trial Court, his counsel was engaged before some other Court and a request was made to take up the case at 02:00 PM. However, even by 02:00 PM, his counsel could not complete the proceedings before other Court. Hence, he could not appear before the learned trial Court, though a request for adjournment was made on his behalf. It is further submitted that the delay occurred in completing the cross-examination of the complainant was neither deliberate nor intentional but due to some unavoidable circumstances. It is further argued that that it is settled law that the right to cross-examine the complainant is an important right given to an accused and the learned trial Court should not have been hyper-technical in closing the cross-examination of the complainant by Court order. Hence, it is urged that the petitioner may be granted one opportunity to conclude the remaining cross-examination of the complainant.

4. I have heard learned counsel for the petitioner and have also perused the material placed on record.

5. The petitioner has been arrayed as accused in the aforementioned complaint filed by the respondent. A perusal of the impugned order shows that the petitioner has not concluded the remaining cross-examination of the

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respondent/complainant, despite being given sufficient opportunity by the learned trial Court. However, at the same time, it is also to be seen that the petitioner has taken a specific plea that since his counsel was appearing in some other Court, he could not appear before the learned trial Court, though a request through a proxy counsel was made to take up the matter at 02:00 PM but even at that time, the situation remained the same, resulting into closure of cross-examination of the complainant. Of course, it seems that the petitioner has been careless in the entire process of cross-examining the complainant but it cannot be forgotten that it is well settled proposition of law that no party should be condemned unheard. The primary duty of the Court is to reach as close to the truth as possible by obtaining proper proof of such facts which would lead to a just and correct decision of the case, which cannot be done without giving an opportunity to the petitioner to complete the remaining cross-examination of the complainant. The Courts are under legal obligation to make every possible effort, in the given fact situation of each case, to reach the truth so as to enable itself to arrive at a just decision for achieving the laudable object of doing substantial justice between the parties. The above conduct of the petitioner is certainly indicative that he has been negligent in pursuing his case. However, the negligence of the petitioner is not of the kind which would leave him with such consequence. Hence, this Court is of the considered opinion that the present petition deserves to be allowed.

6. Accordingly, the present petition is allowed. The impugned order dated 07.05.2025 is hereby set aside to the extent whereby the remaining cross-examination of the complainant is closed. The learned trial Court is

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directed to accord one more opportunity to the petitioner conclude the remaining cross-examination of the respondent/complainant.

7. This order, however, will be subject to payment of costs of Rs. 10,000/-, to be deposited by the petitioner with the learned trial Court, which shall be disbursed to the respondent/complainant on his appearance.

02.06.2025

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No