



- 1-

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

136

**CRM-M-34499-2025
Date of decision: 09.07.2025**

RAJ KUMAR BANTA

....Petitioner

Versus

AMIT KUMAR SAINI

...Respondent

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

Present : Mr. Rakesh Gupta, Advocate and
Ms. Manvi Arora, Advocate
for the petitioner.

SANJAY VASHISTH. J.(Oral)

1. Petitioner Raj Kumar Banta, who is accused in a complaint under Section 138 of the Negotiable Instruments Act has filed the instant petition for setting aside of the order dated 20.05.2025 (Annexure P-1), whereby the learned JMIC, Gurugram, has closed the right of the petitioner to cross-examine the complainant as witness.
2. Detailed reasons have already been assigned by the Court below in its order dated 20.05.2025, mentioning therein that how much efforts or struggle it had to make for securing the presence of the petitioner, despite granting opportunity on several occasions. Even then petitioner failed to cross-examine the witness i.e. complainant, who was present at the relevant time before the trial Court.,



- 2-

3. In view of the reasons assigned in the order, counsel for the petitioner does not press much on merits to challenge the order, however counsel requests for having a sympathetic view by submitting that he is ready to face reasonable cost amount, to pay as penalty for petitioner's conduct. However, one more effective opportunity be granted to the petitioner to conduct cross-examination of the complainant.

4. This Court has already gone through the order impugned herein and *prima facie* is of the view that there is no need to cause any interference with the observations made by the learned trial Court. However, noticing the aspect that one sided recording of statement of complainant i.e. examination-in-chief and then taking any final decision in judicial proceedings is never much appreciated, therefore, in the interest of justice every examination-in-chief is to be subjected to the cross-examination by the opposite party, so that it can be read as a valid evidence as per law of the Evidence Act.

5. Thus taking a compassionate view, this Court deems it appropriate to grant one last opportunity to the petitioner to cross-examine the complainant.

6. For the reasons recorded hereabove, impugned order dated 20.05.2025 (Annexure P-1), whereby right of the petitioner to cross-examine the complainant has been closed by Court order, is hereby **set aside** and trial Court is directed to afford one last and effective opportunity to the petitioner to cross-examine the witness i.e. complainant, on the next date fixed before it i.e. 14.08.2025.

In case no proceeding takes place on the date already fixed, the said exercise shall be completed by fixing a date at the earliest possible.



Therefore, it is directed that respondent-complainant shall make himself available on the next date of hearing i.e. 14.08.2025, for further cross-examination to be conducted by the petitioner or on any other subsequent date as may be directed by the learned trial Court.

7. It is clarified that no further opportunity shall be granted in any manner to the petitioner, if he fails to cross-examine the complainant, except in the eventuality of any unavoidable situation, such as declaration of holiday etc. on the date fixed for the purpose.

8. Additionally, it is specified that before summoning the complainant to appear in the witness box for further cross-examination, the petitioner shall pay an amount of Rs. 25,000/- in advance to the complainant (respondent) as compensation.

9. Furthermore, liberty is granted to the complainant (respondent) that if he still feels aggrieved by the opportunity granted by this Court, he may file an appropriate application for the revival of the present petition. However, in such an eventuality, the complainant (respondent) shall have to return the entire compensation amount of Rs. 25,000/- to the petitioner.

10. With the aforementioned observations, petition stands disposed of.

09.07.2025
amandeep

(SANJAY VASHISTH)
JUDGE

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