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

CRM-M-34690-2025

Date of decision 27.11.2025

JASKARAN SINGH

..... PETITIONER

VERSUS

M/S AJAY GOYAL & CO.

..... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH

Present : Mr. Ashok Kumar Khunger, Advocate
for the petitioner.

Mr. Piyush Setia, Advocate
for the respondent.

SURYA PARTAP SINGH. J.

1. By invoking the extra-ordinary jurisdiction vested in this Court by virtue of Section 528 of the 'Bharatiya Nagarik Suraksha Sanhita, 2023', hereinafter being referred to as "BNSS", the present petition has been filed by the petitioner for quashing of order dated 28.04.2025, hereinafter being referred to as "Impugned order", passed by learned Sub Divisional Judicial Magistrate, Abohar. The above-said order has been passed in a complaint case, for an offence under Section 138 of Negotiable Instruments Act.

2. In nut-shell the facts emerging from record are that for the commission of offence punishable under Section 138 of Negotiable Instruments Act, a trial is being conducted by the Court of learned Sub Divisional Judicial Magistrate, Abohar, hereinafter being referred to as "trial Court". In the above-



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mentioned trial when the case was fixed for arguments, the complainant hereinafter being referred to as “respondent”, moved an application under Section 311 Cr.P.C. (348 BNSS) and the same has been allowed by the learned trial Court.

3. Aggrieved of the impugned order, the present petition has been filed on the ground that impugned order is illegal and perverse in view of the fact that the application which was moved with *mala fide* intentions, to fill up the lacuna, has been allowed. According to petitioner, such application cannot be allowed at the stage, when the case is fixed for arguments, and thus, there is need for indulgence and interference of extra-ordinary jurisdiction of this Court. The petitioner has urged for accepting the present petition and setting aside of the impugned order.

4. Heard.

5. The learned counsel for the petitioner has contended that the petitioner is facing the agony of trial for the last more than 06 years and that after conclusion of defence evidence when the case was fixed for arguments, with an intention to fill up the lacuna the respondent moved an application for permission to lead additional evidence and that the learned trial Court without appreciating the facts and the relevant law, and without applying its judicial mind allowed the above-mentioned application. As per learned counsel for the petitioner the impugned order is against the settled law and therefore, deserves to be set aside. In support of his arguments, learned counsel for the petitioner has referred to the observations made by this Court in the case of **Suresh Kumar vs. Mohan Lal CRM-M-62651-2025**.



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6. *Per contra*, the learned counsel for the respondent has argued that the factual matrix of the present case fully justify the impugned order. According to learned counsel for the respondent the documents being sought to be produced by the petitioner are the documents which are being maintained by public authority and therefore, there cannot be any allegations against the respondent, that with *mala fide* intentions such documents have been created during the pendency of the case. According to learned counsel for the respondent since the above-mentioned documents are material piece of evidence, a right view has been taken by the learned trial Court, while permitting the respondent to prove the above-mentioned documents on record by virtue of additional evidence. In support of his arguments, the learned counsel for the respondent has referred to the observations made by this Court in ***Darshan Singh Vs. Raman Kumar CRM-M-14574-2023***.

7. The record has been perused carefully.

8. A careful perusal of record shows that by virtue of impugned order, the documents allowed to be proved by the learned trial Court are the statement of account being maintained by the Public Bank in usual course of its business. According to learned trial Court in order to prove the transactions, i.e. payment by respondent to the petitioner, for showing existing liability of the petitioner, the above-mentioned documents are necessary.

9. In view of the fact that one of the essential component for a complaint under Section 138 Negotiable Instruments Act is the proof of existing liability and to discharge the above-mentioned burden, if the respondent/complainant is seeking the assistance of some documents, i.e. statement of account of the parties, in my opinion it cannot be held that the

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respondent-complainant has created an evidence in his favour during the pendency of the case.

10. Here this fact cannot be ignored that purpose of any trial is to dig out the truth for dispensation of justice. In the name of technicalities of law, the above-mentioned cause cannot be allowed to take a back seat. Since the proof of transactions between the respondent and petitioner would be of immense help in arriving at a conclusion as to whether there was any existing liability of the petitioner or not, in my opinion no illegality has been committed by the learned trial Court while permitting the respondent-complainant to prove the documents being maintained by a bank in usual course of its business. In view of above-mentioned facts and circumstances of this case in my opinion the facts being distinguishable, the principles laid down in the case of Suresh Kumar (supra) are not applicable to the present case.

11. Keeping in view of the fact that Section 311 Cr.P.C. equip a Court with a jurisdiction to allow the production of any evidence for proper determination of the case, and the above-mentioned discretion has been exercised by the learned trial Court in favour of petitioner, which is not patently illegal or perverse, I hold that there is no scope of indulgence or interference in the impugned order. Thus, it is hereby held that present petition is devoid of merit and deserve dismissal. The same is hereby dismissed accordingly.

(SURYA PARTAP SINGH)
JUDGE

27.11.2025*vipin*

Whether speaking/reasoned : Yes
Whether Reportable : No