



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

125

CRM-M-50301-2025
Decided on : 09.09.2025

Sahil

... Petitioner(s)

Versus

Amit Kumar

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Mitul Singh Rana, Advocate
for the petitioner(s).

SANJAY VASHISTH, J. (Oral)

1. Present petition has been filed u/s 528 of BNSS, 2023, for setting aside of the impugned order dated 28.08.2025 (Annexure P-4), whereby, application of respondent for recalling of CW1 – Sahil (petitioner herein) for re-cross-examination has been allowed by the learned Trial Court, Mukerian, District Hoshiarpur, in complaint case No.NACT/19/2021, titled as, “Sahil v. Amit Kumar”, instituted on 22.02.2021, filed u/s 138 of the Negotiable Instruments Act, 1881 (Annexure P-1). Besides, prayer has also been made for staying the proceedings before the learned trial Court in aforementioned case.

2. By reading out the impugned order (P-4), learned counsel for the petitioner submits that on 01.07.2025, cross-examination of the petitioner (CW-1/complainant) was conducted, but the accused – Amit Kumar, was not present on the said date, as he himself had sent a request seeking exemption from appearance, however, he gave his no objection, stating that in case any evidence was recorded, the same would not be objected to by him.



3. Learned counsel argues that once the accused himself had expressed his no objection in case of recording of the evidence in his absence, there was no occasion for moving an application for recalling the witness again. Further submits that re-examination of the complainant would amount to nothing but filling up of lacunae, which may prejudice the case of the complainant (petitioner herein).

4. I have considered the submissions addressed by learned counsel for the petitioner and also gone through the impugned order (P-4). Undoubtedly, the cross-examination of any witness, to the satisfaction of the accused, is the backbone of the procedural law governing to the recording of evidence, and the consideration of such evidence has to be in conformity with the provisions of the Indian Evidence Act, 1872. Granting an opportunity, even at any stage before pronouncement of judgment, for cross-examination would not cause any prejudice to the complainant, rather, it may help the Court to arrive at a logical conclusion. In such a situation, they would stand justified in observing that, if the request for cross-examination is declined, the right of the accused may get adversely affected, which would definitely be against the spirit of criminal jurisprudence.

However, to avoid any unnecessary cross-examination, it would be upon the Court itself to ensure that such a request is not misused by either the Court or the party seeking to cross-examine the concerned witness. It shall also be ensured that irrelevant questions are not permitted, so as to avoid wastage of the Court's time. Moreover, petitioner has been granted an opportunity to recall the witness for further cross-examination of CW-1/complainant, and it is hereby clarified that only one adequate opportunity



shall be available to the respondent—accused and not beyond that.

5. In view of above, no substance is found to cause any interference in the impugned order (P-4). Accordingly, present petition stands **dismissed**.

(SANJAY VASHISTH)
JUDGE

September 09, 2025

J.Ram

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No