

2026:PHHC:020151



151

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-5486-2025

Mithu Singh

....Petitioner

versus

Pawan Kumar

....Respondent

Date of Decision: February 09, 2026

Date of Uploading: February 11, 2026

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Sherry K. Singla, Advocate for the petitioner.

Mr. Vikas Goyal, Advocate for the respondent.

SUMEET GOEL, J. (Oral)

Present petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 for quashing the impugned order dated 02.12.2024 (Annexure P-6) passed by learned Judicial Magistrate Ist Class, Mansa, to the extent, whereby, request of the respondent-complainant for re-examination of CW1 – Pawan Kumar has been allowed.

2. Learned counsel for the petitioner has argued that the respondent-complainant had filed a complaint under Section 138 of the Negotiable Instruments Act, 1881 (for short, 'NI Act') against the petitioner-accused before the concerned Court on account of dishonour of cheque. Learned counsel has further argued that the petitioner-accused was summoned to face trial and that the complainant (CW-1) tendered his

affidavit by way of examination-in-chief on 09.09.2021 (Annexure P-2). Learned counsel has iterated that the petitioner-accused thereafter cross-examined the said witness (CW-1) on various dates, namely 05.03.2024, 22.08.2024 and 10.09.2024. Learned counsel has further iterated that the cross-examination of the complainant was completed, and thereafter, on 02.12.2024, further proceedings were taken up, on which date, on the request of learned counsel for the complainant, the learned Court below allowed the re-examination of the said witness (CW-1) on the premise that the documents (marked A to M) produced by the petitioner-accused during cross-examination constituted *new facts* for the complainant. Learned counsel has argued that since the documents (marked A to M) had been summoned pursuant to the order dated 22.08.2024 passed by the Court below, and specific suggestions with respect thereto were duly put to CW-1 during cross-examination, no occasion arose for permitting further re-examination in law. Learned counsel has further iterated that once the cross-examination of the complainant stood concluded, the scope of re-examination could not be expanded to fill lacunae or to explain away admissions elicited during cross-examination. It is contended that the learned Court below, without appreciating that the cross-examination of CW-1 had already concluded and without assigning any cogent or legally sustainable reasons, wrongly allowed the request for re-examination of the said witness. Such an order, according to learned counsel, amounts to an impermissible exercise of discretion and causes serious prejudice to the defence of the petitioner-accused. On the strength of the aforesaid submissions, the grant of the petition in hand is sought for.

3. On the other hand, learned counsel for the complainant has opposed the grant of the petition in hand by arguing that the impugned order does not suffer from any illegality or perversity and, therefore, does not warrant interference by this Court. It has been contended that since the documents in question were put to the complainant only during his cross-examination and the same constituted new facts from the standpoint of the complainant, the Court below has rightly acceded to the request of learned counsel for the complainant to permit re-examination of the complainant (CW-1). It has been argued that the scope of re-examination permitted by the Court below is narrowly circumscribed and confined only to the documents marked A to M, and the prosecution does not intend either to alter the substantive version of the complainant or to introduce any new facts on record. Learned counsel has further submitted that no prejudice whatsoever would be caused to the petitioner, inasmuch as after the re-examination of the complainant, the petitioner would be at liberty to further cross-examine the witness, thereby safeguarding his right of defence. On the strength of these submissions, dismissal of the petition in hand has been prayed for.

4. I have heard the learned counsel for the rival parties and have gone through the available record of the case.

5. Before proceeding further, it would be apposite to refer to the Provisions of Section 138 of the Indian Evidence Act, which are as under:-

“Section 138 of the Indian Evidence Act

138. Order of examinations.—*Witnesses shall be first examined-in-chief, then (if the adverse party so desires) cross-examined, then (if the party calling him so desires) reexamined. The examination and cross-examination must relate to relevant facts, but the cross-examination need not be confined to the facts to which the witness testified on his Examination-in-chief.*

Direction of re-examination.—*The re-examination shall be directed to the explanation of matters referred to in cross-examination; and, if new matter*

is, by permission of the Court, introduced in re-examination, the adverse party may further cross-examine upon that matter.”

6. A profitable reference in this regard is being made to the dicta passed by the Hon'ble Supreme Court titled as ***Rammi @ Rameshwar v. State of Madhya Pradesh (1999) 8 SCC 649*** the Supreme Court held as under, relevant whereof reads as under:

17. There is an erroneous impression that re-examination should be confined to clarification of ambiguities which have been brought down in cross-examination. No doubt, ambiguities can be resolved through re-examination. But that is not the only function of the re-examiner. If the party who called the witness feels that explanation is required for any matter referred to in cross-examination he has the liberty to put any question in re-examination to get the explanation. Explanation may be required either when ambiguity remains regarding any answer elicited during cross-examination or even otherwise. If certain answers require more elucidation from the witness he has the freedom and the right to put such questions as he deems necessary for that purpose, subject of course to the control of the court in accordance with the other provisions. But the court cannot direct him to confine his question to ambiguities alone which arose in cross-examination.

7. A plain reading of Section 138 of the Indian Evidence Act, 1872 clearly postulates a three-fold stage of witness examination, namely examination-in-chief, cross-examination and re-examination. While the scope of re-examination is ordinarily confined to explanation of matters referred to in cross-examination, the provision does not place a rigid embargo upon the Court to permit clarification of such matters as may have emerged during cross-examination. The controlling factor is that re-examination must not be permitted to fill lacunae or to materially alter the substratum of the case. Reverting to the facts of the present case, it concededly emerges that the respondent-complainant had filed a complaint under Section 138 of the Negotiable Instruments Act, 1881, against the petitioner-accused on account of dishonour of cheque. The complainant (CW-1) had tendered his affidavit by way of examination-in-chief on

09.09.2021 and was thereafter subjected to detailed and exhaustive cross-examination by learned counsel for the petitioner-accused on various dates, including 05.03.2024, 22.08.2024, 10.09.2024 and 02.12.2024. On 02.12.2024, during the course of cross-examination, certain documents, marked A to M, were produced by the petitioner-accused and were put to the complainant. Upon a request made by learned counsel for the complainant, the learned Court below permitted re-examination of CW-1, strictly for the limited purpose qua the said documents, as the same were stated to be new facts introduced for the first time during cross-examination. A perusal of the impugned order clearly reveals that the re-examination was confined only to explaining and clarifying the documents brought on record during cross-examination and not for introducing any fresh or substantive evidence.

7.1. The contention raised by learned counsel for the petitioner that once cross-examination stood concluded, re-examination could not have been permitted, is misconceived. Section 138 of the Indian Evidence Act itself contemplates re-examination after cross-examination. The very structure of the provision recognises that issues or matters may arise during cross-examination which necessitates clarification by the witness. Therefore, the mere fact that cross-examination had concluded does not create an absolute bar against re-examination, provided that such re-examination is confined to the explanation of matters referred to in cross-examination.

7.2. In the present case, the documents marked A to M were admittedly introduced by the petitioner-accused during cross-examination. Once such documents were relied upon to confront the complainant, it was within the scope of Section 138 of the Indian Evidence Act to permit the complainant to explain or clarify the same. The re-examination permitted by

the learned trial Court does not transgress the statutory limits of Section 138, as there is nothing on record to suggest that the complainant seeks to improve his version or retract any admission already made during cross-examination.

7.3. Further, Section 138 itself safeguards the interest of the adverse party by expressly providing that if any new matter is introduced during re-examination with the permission of the Court, the adverse party may further cross-examine upon that matter. In the present case, the petitioner-accused retains the liberty to further cross-examine the complainant after re-examination. Therefore, no prejudice is caused to the petitioner. In view of the above, this Court finds that the impugned order permitting limited re-examination of CW-1 is in consonance with the statutory scheme of Section 138 of the Indian Evidence Act. The order neither suffers from arbitrariness nor from perversity, nor can it be said to be contrary to law. Consequently, no interference is warranted in exercise of inherent jurisdiction.

8. For the foregoing reasons, this Court does not find any error in the impugned order passed by the Court below. In the considered opinion of this Court, the trial Court has appropriately allowed the request of the counsel for the complainant in respect of re-examination *qua* documents mark A to mark M.

9. In view of the foregoing discussion, it is directed as follows:

(1) The impugned order dated 02.12.2024 passed by the JMIC, Mansa does not call for any interference. The petition in hand is accordingly **dismissed**.

(ii) Any observations made and/or submissions noted hereinabove shall not have any effect on the merits of the case

and the Court below shall proceed further, in accordance with law, without being influenced therefrom.

(iii) Pending application(s), if any, shall also stand disposed off.

(SUMEET GOEL)
JUDGE

February 09, 2026

mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No