



CRM-M-13090-2022

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

CRM-M-13090-2022

Reserved on:-12.03.2026

Pronounced on:-16.03.2026

Uploaded on:-

*Whether only operative part of the judgment is
Pronounced or the full judgment is pronounced: operative part/full judgment*

RAM KARAN

...Petitioner

Versus

VIJAY KUMAR AND ANR.

....Respondents

CORAM: HON'BLE MS. JUSTICE MANDEEP PANNU

Present:- Mr. G.C. Shahpuri, Advocate
for the petitioner.

Mr. Parminder Singh, Advocate
for respondent No.1.

Mr. Sushil Bhardwaj, Addl. A.G. Haryana.

MANDEEP PANNU, J.

1. The present petition has been filed under Section 482 of the Code of Criminal Procedure for quashing of the order dated 10.02.2022 passed by the learned Additional Sessions Judge, Kurukshetra, whereby the application filed by the petitioner under Section 391 Cr.P.C. seeking permission to lead additional evidence in Criminal Appeal No. 434 of 2017 titled as “*Ram Karan vs. Vijay Kumar*” has been dismissed. The said appeal arises out of Criminal Complaint No. RBT-444 of 2017 instituted on 10.09.2013 under Sections 138 and 142 of the Negotiable Instruments Act, 1881. The petitioner has approached this Court challenging the aforesaid



order on the ground that the learned Additional Sessions Judge wrongly declined the prayer of the petitioner for leading additional evidence in the pending appeal.

2. The petitioner/accused had moved an application under Section 391 Cr.P.C. read with Section 311 Cr.P.C. before the learned Lower Appellate Court seeking permission to lead additional evidence in the pending criminal appeal. In the said application, it was averred that the complaint under Section 138 of the Negotiable Instruments Act had been filed on the allegation that on 01.07.2013 the present petitioner had allegedly issued cheque No. 477171 dated 01.07.2013 in favour of the complainant, which was dishonoured on 16.07.2013 on account of insufficient funds, after which a legal notice dated 12.08.2013 was allegedly issued by the complainant. It was further stated in the application that the consistent defence of the petitioner from the very beginning had been that the cheque in question had never been issued to the complainant in discharge of any legally enforceable liability. Rather, it was contended that the petitioner had availed a loan from the District Primary Cooperative Agriculture and Rural Development Bank Ltd., Radaur in the year 2008, and at the time of sanction and disbursement of the loan, the bank officials had obtained ten blank signed cheques from the petitioner as security, bearing cheque numbers 477171 to 477180, including the cheque in question. It was asserted that these cheques were given to the bank without date and without filling the particulars and were meant only as security for the loan. The petitioner further averred that the said defence had already been disclosed in the reply dated 07.09.2013 submitted by him to the complainant and the same was



placed on record as Ex.C8 during the trial. It was also stated that the loan obtained from the bank had subsequently been repaid by the petitioner and his mother and the bank had issued a clearance certificate after repayment of the loan. The petitioner further pleaded that the DPCARD Bank, Radaur had itself earlier filed a complaint under Section 138 of the Negotiable Instruments Act bearing NIA No. 685 of 2013 against the petitioner with respect to another cheque of the same series, i.e., cheque No. 477175, and in that complaint the original cheque was placed on record before the Court at Jagadhri. It was further stated that prior to filing of that complaint, the bank had issued a notice dated 24.01.2013 to the petitioner, to which the petitioner had replied through his counsel on 08.02.2013, clearly mentioning that ten blank signed cheques of the same series had been given to the bank as security and seeking their return after repayment of the loan.

3. It was also averred that even earlier the bank had issued another notice dated 20.06.2012 regarding dishonour of cheque No. 477173, to which the petitioner had sent a reply dated 28.06.2012 through counsel reiterating the same defence that the blank signed cheques had been taken by the bank as security at the time of the loan. It was further stated that the petitioner had also issued a legal notice dated 22.06.2012 to the bank seeking return of the blank signed cheques after repayment of the loan amount. The petitioner asserted that the aforesaid documents and facts were essential and material for the just decision of the case, as they clearly established that the cheque in question formed part of the series of blank signed security cheques given to the bank and had not been issued to the complainant in discharge of any legal liability. It was further pleaded that



these facts and documents could not be properly brought on record before the trial Court due to lack of proper communication between the petitioner and his previous counsel. On these premises, the petitioner prayed before the learned Lower Appellate Court that permission be granted to lead additional evidence so that the relevant documents could be brought on record for the fair and effective adjudication of the appeal.

4. Vide the impugned order dated 10.02.2022, the learned Additional Sessions Judge, Kurukshetra dismissed the application filed by the petitioner/appellant under Section 391 read with Section 311 Cr.P.C. seeking permission to lead additional evidence. The learned appellate Court observed that the complaint under Section 138 of the Negotiable Instruments Act had been instituted on 10.09.2013, the complainant had closed his evidence on 03.11.2015, the statement of the accused under Section 313 Cr.P.C. was recorded on 10.03.2016, and thereafter the accused was granted sufficient opportunities to lead defence evidence which was ultimately closed on 01.11.2017, after which the trial Court decided the matter. The Court further held that the documents sought to be produced and the examination of handwriting expert were within the knowledge of the appellant during the trial and could have been produced at that stage. It was also observed that the application appeared to be an attempt to introduce new material at the appellate stage and to fill the lacuna in defence evidence. Holding that the case was not a fit one for exercising powers under Section 391 Cr.P.C., the learned Additional Sessions Judge dismissed the said application.



5. Learned counsel for the petitioner/accused contends that the impugned order passed by the learned Additional Sessions Judge, Kurukshetra is illegal and contrary to the facts and circumstances of the case. It is submitted that the petitioner had taken a consistent defence during the course of the trial that he had never issued the cheque in question to the complainant in discharge of any legally enforceable liability and that the cheque in question, along with other cheques bearing Nos. 477171 to 477180, had been handed over as blank signed security cheques to the District Primary Cooperative Agricultural Rural Development Bank, Radaur at the time of availing the loan facility. It is further contended that due to lack of proper communication between the petitioner and his previous counsel before the trial Court, certain material documents which substantiate the defence of the petitioner could not be brought on record during the trial and the petitioner now seeks to place the said documents on record by way of additional evidence in the appellate proceedings. It is further argued that the documents sought to be produced by way of additional evidence, including various legal notices issued between the petitioner and the DPCARD Bank, Radaur and the replies thereto, are essential and necessary as they corroborate the stand taken by the petitioner from the very inception that the cheque in question formed part of the blank signed cheques given to the bank as security.

6. Learned counsel submits that the petitioner also seeks to summon the original record of Complaint No. NIA-685 of 2013 decided on 05.11.2014 by the Court of learned JMIC, Jagadhri, wherein another cheque of the same series had been the subject matter of proceedings, so as to



demonstrate that both the cheques belong to the same series and were issued at the same time with the same pen and ink while availing the loan from the bank. According to the petitioner, such evidence would materially assist the appellate Court in properly appreciating the defence taken by the petitioner. It is also contended that the learned Additional Sessions Judge failed to appreciate that under Section 391 Cr.P.C., the appellate Court has ample powers to take additional evidence if it is found necessary for the just decision of the case. It is argued that the additional evidence sought to be produced is directly relevant to the defence of the petitioner and is essential for the fair adjudication of the appeal pending before the appellate Court. He further submits that even if some delay occurs on account of permitting such evidence, the same can be compensated by imposing reasonable costs, but the petitioner cannot be denied the opportunity to lead additional evidence, particularly when he has challenged the judgment of conviction in appeal. It is thus contended that denial of such opportunity would cause serious prejudice to the petitioner and adversely affect his right to a fair trial and proper adjudication of the appeal.

7. Learned counsel for the petitioner/accused has further placed reliance upon the judgment titled “*S. Satyvathi vs. K. Venkateswarlu, Criminal Petition No. 11058 of 2025, decided on 18.11.2025*” by the Telangana High Court, wherein while interpreting the scope of Section 391 Cr.P.C., it was held that the appellate Court possesses the power to take additional evidence during the pendency of appeal if such evidence appears necessary to secure the ends of justice and to prevent failure of justice. It was observed that the power to record additional evidence is discretionary



and must be exercised judiciously, particularly in circumstances where non-production of such evidence may result in miscarriage of justice. On the strength of the aforesaid judgment, it has been argued that the additional evidence sought to be produced by the petitioner is essential for proper adjudication of the appeal and therefore the appellate Court ought to have allowed the application filed under Section 391 Cr.P.C.

8. Learned counsel appearing on behalf of the respondent/complainant has opposed the petition and supported the impugned order passed by the learned Additional Sessions Judge, Kurukshetra. It is contended that the application filed by the petitioner under Section 391 Cr.P.C. was not maintainable and had been moved only with a view to delay the proceedings of the appeal. It is submitted that there is already sufficient evidence available on the record of the trial Court for effective adjudication of the appeal on merits and the petitioner is unnecessarily seeking to introduce additional evidence at the appellate stage. It is further contended that the documents which the petitioner seeks to produce by way of additional evidence were very much within his knowledge from the very beginning as the said documents pertain to the period 2012–2014. It is argued that the defence evidence before the trial Court had continued for more than one and a half years and the petitioner had examined as many as eight witnesses in defence, therefore he had ample opportunity to produce the said documents during the trial proceedings. However, the petitioner deliberately chose not to produce such evidence before the trial Court and is now attempting to introduce the same at the appellate stage. It is also submitted that permitting the petitioner to lead such



additional evidence would amount to allowing him to fill up the lacuna in his defence case and reopen the proceedings, which is not permissible in law. Learned counsel further argues that the application has been filed with malafide intention to harass the respondent/complainant and to prolong the litigation. On these grounds, it has been prayed that the application filed by the petitioner for leading additional evidence has rightly been dismissed by the learned Additional Sessions Judge and the present petition deserves to be dismissed.

9. Having heard learned counsel for the parties and upon perusal of the record, this Court is of the considered view that the present petition is devoid of merit and does not warrant interference in exercise of inherent jurisdiction. The impugned order dated 10.02.2022 passed by the learned Additional Sessions Judge, Kurukshetra declining the application filed by the petitioner under Section 391 Cr.P.C. read with Section 311 Cr.P.C. does not suffer from any illegality, perversity or jurisdictional error. The scope of Section 391 Cr.P.C. is well settled. The power of the appellate Court to take additional evidence is discretionary and is to be exercised sparingly and only in cases where such evidence is found necessary for the just decision of the case. The said provision cannot be invoked to permit a party to fill up the lacuna in its case or to improve upon a defence which the party had ample opportunity to establish during the course of trial. The record reveals that the defence evidence before the trial Court continued for a considerable period and the petitioner/accused had examined several witnesses in defence. Thus, the petitioner had sufficient opportunities to produce the documents which he now seeks to bring on record by way of additional evidence. However,



the petitioner chose not to produce such evidence during the trial and is now attempting to introduce the same at the appellate stage. The explanation furnished by the petitioner that the documents could not be produced earlier due to lack of communication with the previous counsel is wholly unsatisfactory and does not constitute a valid ground for invoking the extraordinary power under Section 391 Cr.P.C. If such a ground is accepted as a matter of routine, it would virtually permit every litigant to reopen the case at the appellate stage on the plea of inadvertence or miscommunication, which is not the intent of the provision.

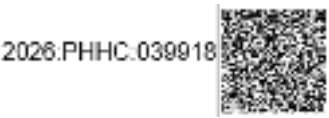
10. Even otherwise, this Court finds that the documents sought to be produced by way of additional evidence do not appear to have any material bearing on the controversy involved in the present case. The petitioner seeks to rely upon certain notices and replies allegedly exchanged between him and the DPCARD Bank, Radaur, including a reply dated 08.02.2013, in order to suggest that the cheque in question was one of the blank signed cheques given to the bank as security. However, a perusal of the said reply dated 08.02.2013, which the petitioner seeks to produce as additional evidence, reveals that the only assertion made therein is that ten blank signed cheques without date had been given to the bank as security. Significantly, the said reply nowhere mentions the cheque numbers or the series allegedly ranging from 477171 onwards, which the petitioner now seeks to rely upon in order to connect the disputed cheque with the alleged security cheques given to the bank. Therefore, even if the said reply and other documents sought to be produced by the petitioner are taken on record, they do not establish that the cheque involved in the present complaint



formed part of the alleged series of security cheques. The documents only contain a general assertion regarding certain blank signed cheques having been given to the bank, without specifying the cheque numbers or the series. Consequently, the proposed additional evidence does not appear to be of such nature as would materially affect the adjudication of the appeal. Thus, the attempt of the petitioner appears to be nothing but an endeavour to reopen the defence at the appellate stage and to create a linkage between the disputed cheque and the alleged security cheques on the basis of vague and general averments. The appellate Court was therefore justified in concluding that the petitioner cannot be permitted to fill up the lacuna in the defence evidence by introducing new material at the appellate stage.

11. This Court also finds no merit in the contention that denial of permission to lead additional evidence would cause prejudice to the petitioner. The petitioner had adequate opportunities during the course of trial to lead evidence in support of his defence and had in fact examined several witnesses. Having failed to produce the relevant material at the appropriate stage, the petitioner cannot now be permitted to reopen the case merely on the ground that such evidence is now considered useful for the purpose of the appeal.

12. Learned counsel for the petitioner has placed reliance upon the judgment titled “*S. Satyvathi vs. K. Venkateswarlu*” (*supra*). However, the said judgment does not advance the case of the petitioner. The principle laid down therein is that additional evidence may be permitted by the appellate Court where such evidence is necessary to secure the ends of justice or to prevent failure of justice. In the present case, as already noticed, the



documents sought to be produced by the petitioner were within his knowledge from the very beginning and could have been produced during the trial. Moreover, the proposed evidence does not appear to have any decisive bearing on the issues involved in the appeal. Therefore, the facts of the present case are clearly distinguishable and the ratio of the aforesaid judgment does not come to the aid of the petitioner.

13. In view of the above discussion, this Court is satisfied that the learned Additional Sessions Judge, Kurukshetra has rightly exercised the discretion vested in it while rejecting the application filed under Section 391 Cr.P.C. The impugned order does not suffer from any legal infirmity requiring interference by this Court.

14. Consequently, the present petition is dismissed, being devoid of merit.

15. It is, however, clarified that nothing observed herein shall be construed as an expression of opinion on the merits of the case.

16. All pending applications, if any, also stand disposed of.

16.03.2026
Anu

(MANDEEP PANNU)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No