IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

128 **CRR-1172-2024 (O&M)**
Date of decision : 09.02.2026

M/s Sai Medicos & Anr.

..... Petitioners

VERSUS

K.C. Sharma (Krishan Chand Sharma)

..... Respondent

CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH

Present : Mr. Inderjeet Sharma and Mr. Deepak Grover, Advocates for the petitioners.

Mr. Anil Shukla, Advocate for the respondent.

*****

SURYA PARTAP SINGH, J.

In a trial being conducted by the Court of learned Judicial Magistrate First Class Faridabad, hereinafter being referred to as 'trial Court' only, for the commission of offence punishable under Section 138 of Negotiable Instruments Act, the application moved by the petitioner/accused, hereinafter being referred to as 'petitioner' only, under Section 311 of Code of Criminal Procedure, has been dismissed. The abovesaid application has been dismissed by virtue of order dated 09.05.2024, hereinafter being referred to as 'impugned order'.

2. Aggrieved of the abovementioned order, the present Revision Petition has been preferred.

3. In brief, the facts emanating from record are that the petitioner is facing trial for the commission of abovementioned offence and the

abovementioned trial is at the stage of defence evidence. As per record, at the stage, when the petitioner is supposed to adduce his evidence, an application dated 05.10.2023, under Section 311 CrPC was moved, but the learned trial Court observed that the documents, being sought to be produced by the petitioner, i.e. the Income Tax Return of the complainant/respondent, are not relevant for the decision of complaint under Section 138 of NI Act.

4. Heard.

5. It has been contended on behalf of petitioner that the petitioner is facing trial for the commission of abovementioned offence in view of false averments made in the complaint. According to learned counsel for the petitioner, one of the crucial aspects involved in the trial is as to whether there was any existing liability of petitioner to pay the cheque amount or not. As per learned counsel for the petitioner, during the course of cross-examination of the complainant/respondent, he was encountered with a question as to whether he had mentioned the liability with regard to payment of money by the petitioner in his Income Tax Returns for the financial year 2016-17 or not.

6. As per learned counsel for the petitioner, the copy of Income Tax Return was placed on record by the respondent himself before the learned trial Court, but there is a big question mark with regard to authenticity of entries recorded therein. According to learned counsel for the petitioner to cross-verify the abovementioned document, it is necessary for the petitioner to call the original Income Tax Return of the respondent from Income Tax Department. It has also been contended by learned counsel for

the petitioner that the case is fixed for defence evidence and as per settled principles of law, at this stage whatever the evidence, the petitioner (being accused) wants to lead, the learned trial Court should facilitate the same in a positive manner, rather being a hurdle in producing the same. The learned counsel for the respondent has further contended that the denial of abovementioned right to the petitioner will cause a grave prejudice to him, which is in violation of settled principles of law.

7. The learned counsel for the respondent has controverted the abovementioned arguments. According to learned counsel for the respondent the document is being sought to be produced, by the petitioner, to prove existing liability of the petitioner regarding cheque amount. With regard to above, the learned counsel for the respondent has referred to the contents of Revision Petition, wherein the petitioner has admitted the fact that there was an existing liability of the petitioner to pay cheque amount to the respondent. As per learned counsel for the petitioner, once there is no dispute qua the liability of petitioner, the evidence being sought to be produced by the petitioner is nothing but a device to prolong the decision in the abovementioned case.

8. The record has been perused carefully.

9. A perusal of record shows that in the present case, there are several facts qua which there is no dispute between the parties. The abovementioned facts are:-

i) that the petitioner is facing a prosecution for the commission of offence punishable under Section 138 of NI Act;

ii) that earlier the petitioner and the respondent were partners of one partnership firm;

iii) that on 22.07.2015, the abovementioned partnership was dissolved;

iv) that the trial is at the stage of defence evidence; and

v) that at the stage of defence evidence, the permission to prove Income Tax Return of the respondent has been denied.

10. In the backdrop of abovementioned facts, now it has to be determined as to whether the impugned order is suffering from any perversity/defect or not.

11. With regard to abovementioned order, at the very outset it is pertinent to mention here that the sole ground for seeking permission to produce the abovementioned document, raised by the petitioner, is that to prove the existing liability, the income tax record of the respondent is required. However, the abovementioned plea taken by the respondent dashes to the ground in view of admission made by the petitioner in the Revision Petition itself. In para No.5 of the Revision Petition, it has been mentioned by the petitioner that on 25.10.2016, actual net profit of the partnership firm, of the petitioner and respondent, was assessed to be Rs.9,01,380/-, and that 50% of the abovementioned profit was to be paid by the petitioner to the respondent. As per petitioner, in discharge of abovementioned liability, he had issued a cheque for a sum of Rs.4,50,000/- on 15.09.2017 in favour of respondent.

12. In addition to above, the petitioner has also mentioned that Harpreet Singh Chadha, Manager of petitioner No.1-firm on 24.08.2017 had

issued a cheque for a sum of Rs.4,90,000/- drawn on HDFC Bank, Sector-16, Faridabad, in order to repay Rs.4,00,000/- taken from the respondent and Rs.90,000/- as retainership, for the period July 2015 onwards. The petitioner has also alleged that on 23.09.2017 also, the cheque worth Rs.9,00,000/- was issued in favour of respondent drawn on State Bank of India, Bhatola Naher Par, Faridabad.

13. In view of abovementioned categorical admission made by the petitioner in the Revision Petition, which shows that the petitioner himself is admitting his existing liability, the question with regard to proving or disproving the existing liability pales into significance. Once there is no denial on the part of petitioner that there was a liability to be discharged by him in favour of respondent, the proving of Income Tax Return of the respondent would be nothing but a futile exercise. Apparently the abovesaid step taken by the petitioner in a device adopted by the petitioner to delay the disposal of complaint under Section 138 of NI Act.

14. As a sequel to abovementioned observations, once it is established that the document being sought to be produced by the petitioner is not at all required for proper adjudication of the complaint, it is hereby held that the learned trial Court has exercised its discretion in a proper manner and there is no illegality or infirmity in the abovementioned impugned order passed by the learned trial Court.

15. As a sequel to abovementioned observations, it is hereby held that there is no scope for indulgence or interference in the impugned order

passed by the learned trial Court, and that the present petition being devoid of merit deserves dismissal. The same is hereby ***dismissed***, accordingly.

16. Pending miscellaneous application(s), if any, also stand(s) disposed of, accordingly.

(SURYA PARTAP SINGH)
JUDGE

09.02.2026
Gaurav Thakur

Whether speaking / reasoned Yes/No
Whether Reportable Yes/No