

(2012) 09 P&H CK 0329

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Miscellaneous No. M- 25362 of 2012

Ranjit Singh

APPELLANT

Vs

Hargurpreet Singh

RESPONDENT

Date of Decision: Sept. 13, 2012

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 311, 482
- Negotiable Instruments Act, 1881 (NI) - Section 138

Hon'ble Judges: Vijender Singh Malik, J

Bench: Single Bench

Advocate: V.K. Sandhir, for the Appellant;

Final Decision: Dismissed

Judgement

Vijender Singh Malik, J.

Crl. Miscs. No. 54527 and 54528 of 2012

1. Miscellaneous applications are allowed. Document i.e. Annexure P-3 is taken on record and the petitioner is granted exemption from filing a certified copy thereof.

Crl. Misc. No. M-25362 of 2012

This petition, brought under the provisions of section 482 Cr. P.C. by Ranjit Singh, the petitioner, is for setting aside the order dated 23.05.2012 passed by learned Judicial Magistrate Ist Class, Amritsar, in a complaint case No. 3506 dated 11.07.2007 titled as "Hargurpreet Singh v. Ranjit Singh", for an offence punishable u/s 138 of Negotiable Instruments Act, 1881 (for short "the Act"), vide which his application u/s 311 Cr. P.C. has been dismissed.

2. In the proceedings launched by Hargurpreet Singh against the petitioner Ranjit Singh for an offence punishable u/s 138 of the Act, the petitioner was leading his evidence in defence. After the petitioner availed a number of opportunities to lead

his defence evidence, the court closed the same vide order dated 10.05.2010. Against the said order, the petitioner preferred a revision before this court and the said petition was allowed granting only one opportunity to the petitioner to conclude his defence evidence. After availing that opportunity, the petitioner closed his defence evidence. Thereafter, the petitioner moved an application u/s 311 Cr. P.C. for permission to examine handwriting expert, which was dismissed vide the impugned order by learned Judicial Magistrate Ist Class, Amritsar.

3. Learned counsel for the petitioner has contended that the necessity to examine handwriting expert arose during cross-examination of Sandeep Singh where it was suggested that an attempt was made to implicate the complainant by forging his signatures on Ex. DX. According to him, the complainant denied his signatures on Ex. DX in the cross-examination of Sandeep Singh and so the signatures appearing on Ex. DX are required to be proved to be of the complainant by examining handwriting expert.

4. Sandeep Singh was examined as a witness in defence on the date for which opportunity was granted by this court in the revision petition brought by the petitioner. The petitioner nowhere says that the complainant had admitted his signatures on Ex. DX anywhere and that the suggestion put to Sandeep Singh was contrary to his earlier stand and so he was taken by surprise by the suggestion. It cannot be said that on any such twist or turn in the evidence, a party whose evidence was closed by the orders of the court and was given one opportunity in the revision petition to lead his defence evidence would be entitled to move an application u/s 311 Cr. P.C. for examining another witness. Moreover, after availing the opportunity allowed in the revision petition to the petitioner, he himself closed his evidence and this application was not moved before closing of the evidence. The cheque Ex. DX is not claimed to have been admitted to be executed by the complainant at any stage and so the petitioner cannot be believed to have been taken by surprise in the cross-examination of Sandeep Singh on the suggestion put to him on behalf of the complainant. Keeping in view the aforesaid circumstances, I find no reason to hold the impugned order to be bad in any manner. Hence, the petition merits dismissal and is dismissed as such.