



S. No.119

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-38878 of 2025
Date of Decision:04.09.2025

Aditya Gupta

.....Petitioner

Vs.

State of Haryana and another

.....Respondents

CORAM:- HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present:- Mr. Sandeep Goyat, Advocate for the petitioner.

Yashvir Singh Rathor, J. (Oral)

1. This petition is directed against the order dated 02.01.2025 passed by Judicial Magistrate Ist Class, Hisar in case **NACT/1740/2022- Star India Stainless Vs. Aditya Gupta**, vide which the defence evidence has been ordered to be closed . The learned trial Court has passed the following order:-

“Today, the case is fixed for defence evidence, if any and for arguments. No DW is present.

A perusal of the file shows that the accused has availed several effective opportunities on 2.8.2023, 29.8.2023, 28.9.2023, 11.10.2023, 15.11.2023, 5.12.2023, 15.1.2024, 6.2.2024, 18.3.2024, 7.6.2024, 29.7.2024, 23.9.2024, 21.10.2024 & 3.12.2024 for defence evidence. But despite availing sufficient effective opportunities he has failed to conclude evidence in defence.



Therefore, oral defence evidence is hereby closed by the court orders. Now, to come up on 28.1.2025 for documentary defence evidence if any and for arguments.”

2. Learned counsel for the petitioner has argued that the petitioner was summoned to face trial in a complaint under Section 138 of the NI Act. The evidence of the complainant was closed on 02.08.2023 and case was adjourned to 29.08.2023 for defence evidence and arguments. Learned counsel has further submitted that the petitioner-applicant moved an application Annexure P.1/A for depositing the expenses for summoning the witnesses in his defence evidence which was allowed and he deposited a sum of Rs.8,000/- as diet money on 19.01.2024 but no efforts were made by the Court to summon the witnesses and the defence evidence has been ordered to be closed without assigning any cogent reason. Learned counsel has also contended that once he had deposited the expenses to summon the witnesses, a duty was cast upon the Court to summon the witnesses and his evidence could not have been ordered to be closed by way of the impugned order and he prayed that the impugned order be set aside.

3. A perusal of the record shows that the complainant closed the evidence on 02.08.2023 and the case was was adjourned to 29.8.2023 for defence evidence and arguments. Subsequently, accused- petitioner moved an application on 20.12.2023 for summoning four witnesses and made a prayer for assessing the expenses to be deposited towards diet money which was allowed and he was called upon to deposit a sum of Rs.8,000/- as diet money and a sum of Rs.8,000/- was deposited before Naib Nazir, Hisar on 19.1.2024, as apparent from the endorsement on the application itself. Various zimni orders have been placed on



file which show that after the expenses were deposited, case was adjourned to 06.02.2024, 18.03.2024, 05.04.2024, 10.05.2024, 07.06.2024 and 29.07.2024 for defence evidence. However, only in the order dated 06.02.2024, it is mentioned that summons issued to witnesses have not been received back and all the other orders are silent whether summons have been issued to the witnesses or not. However, once petitioner had deposited the expenses to summon witnesses in his defence, duty was cast upon the Court to summon the witnesses either by issuing summons or by other means but no effort has been made to summon them and the defence evidence has been ordered to be closed in a casual manner vide order dated 02.01.2025 which has been reproduced above. However, accused has a valuable right to lead evidence in defence and he should be afforded an opportunity of a fair trial and he shall suffer irreparable loss in case the witnesses cited by him are not summoned by the Court as he will not be able to prove his defence to the charge/ notice.

4. Resultantly, present petition is disposed of and order dated 02.01.2025 is set aside. The learned trial Court is directed to afford one effective opportunity to examine the witnesses and petitioner shall obtain dasti summons from the trial Court and shall serve the summons upon the witnesses at his own responsibility. In case, any witness does not turn up despite service of summons, the trial Court shall secure his/her presence through other means. However, petitioner is burdened with costs of Rs.15,000/- to be deposited with Punjab State Legal Services Authority Disaster Relief Fund (Account No.44426937384, IFSC Code SBIN0014656).



5. It is made clear that the petitioner will produce the receipt thereof before the trial Court before he is allowed to lead evidence.

(Yashvir Singh Rathor)
Judge

September 04, 2025

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Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No