



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

CRM-M-45194-2025 (O&M)
Date of decision: 20.08.2025

MAYUR AGGARWAL

...Petitioner

VERSUS

STATE OF HARYANA AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present: Ms. Arshdeep Kaur, Advocate
for the applicant/petitioner.

Mr. Ramesh Kumar Ambavta, DAG, Haryana.

YASHVIR SINGH RATHOR, J. (Oral)

CRM-32383-2025

Allowed as prayed for.

CRM-M-45194-2025

1. Present petition has been filed for quashing of order dated 06.04.2024 (Annexure P-4) passed by learned JMIC, Gurugram, whereby cross-examination of complianant-Amit Yadav, has been treated as NIL and order dated 23.04.2025(Annexure P-6) passed by Ld. JMIC, Gurugram vide which the application under Section 348 BNSS (erstwhile 311 of Cr.P.C.) praying for recalling of witness for cross-examination has been dismissed.



2. Learned counsel for the petitioner has argued that the petitioner filed the petition under Section 348 BNSS (erstwhile 311 of Cr.P.C.) praying for recalling of order dated 06.04.2024 but the same was declined by learned Trial Court. It is submitted that the petitioner is the accused in the complaint and without cross-examination of the complainant, he would suffer an irreparable loss and injuries. She submits that there was no deliberate intention on the part of the petitioner in not cross-examining the complainant. Learned counsel submits that the trial Court has erred in declining the same vide impugned order and the same deserves to be set aside.

3. Heard.

4. A perusal of the file show that a compliant under Section 138 of Negotiable Instrument Act was filed by the respondent against the petitioner wherein the complainant appeared but his cross-examination was ordered to be treated as NIL due to non-appearance of his counsel. Thereafter, the petitioner moved an application under Section 348 BNSS (erstwhile 311 of Cr.P.C.) for recalling of said witness which was declined by the learned trial Court vide order dated 23.04.2025 wherein, it was observed that the accused failed to cross-examine the complainant, despite numerous opportunities and his cross-examination was ordered to be treated as NIL. However, the Court cannot ignore the fact that the petitioner is being prosecuted in a complaint under Section 138 of Negotiable Instruments Act and the cross-examination of the complainant is essential for just decision of the case and in case, the



cross-examination of the complainant is not allowed to be conducted by the petitioner, he will suffer an irreparable loss and will not be able to set up his defence to the charge/notice. Beside this, various orders dated 11.01.2023, 21.03.2023, 30.05.2023, 18.07.2023, 28.09.2023, 15.11.2023, 09.01.2024 have been perused, in which stereotype order has been passed that “cross-examination of complainant could not be conducted. Adjournment sought. Heard and allowed. Now, case is adjourned to ___ for cross-examination of complainant”. In none of these orders, it is recorded that the case was adjourned and the complainant was not cross-examined on the request of the accused or defence counsel and it can thus be inferred that the complainant himself had not offered himself for cross-examination.

5. Resultantly, the present petition is allowed and orders dated 06.04.2024 and 23.04.2025, are hereby set aside. Learned trial Court is directed to afford one effective opportunity for cross-examination of the complainant, subject to payment of cost of Rs.10,000/- to be paid to the complainant, on his appearance before the trial Court. It is made clear that no further opportunity will be granted to the petitioner for the purpose of cross-examination of the complainant, namely, Amit Yadav and the cost will be paid to the complainant by the petitioner before start of cross-examination of the complainant.

(YASHVIR SINGH RATHOR)
JUDGE

20.08.2025

Priyanka Thakur

Whether speaking/reasoned :
Whether Reportable :

Yes	No
Yes	No