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

CRM-M-1846-2025

Date of decision: 16.01.2025

Yogesh Tyagi

....Petitioner

Versus

State of Haryana and another

...Respondent

**CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR****Present:** Mr. Shiv Bhatt, Advocate and  
Mr. Lalit Kumar Yadav, Advocate  
for the petitioner.

Ms. Mayuri Lakhanpal Kalia, DAG, Haryana.

**HARPREET SINGH BRAR, J. (ORAL)**

1. This petition has been filed under Section 482 of Cr.P.C. seeking quashing/setting aside of the order dated 19.12.2024 (Annexure P-1) and/or complaint Case Nos.1220 of 2016 dated 03.02.2016 (Old complaint No. 116 of 2015) (Annexure P-15) filed under Section 138 of Negotiable Instruments Act pending in the Court of learned Magistrate 1<sup>st</sup> Class, Gurugram and consequential proceedings arising therefrom.

2. Learned counsel for the petitioner *inter alia* contends that on 07.09.2024, learned Judicial Magistrate 1<sup>st</sup> Class, Gurugram has summoned the defence witnesses and thereafter, the petitioner has already examined 08 witnesses out of total 13, cited by him. Vide impugned order dated 19.12.2024, the evidence of the petitioner was closed by Court orders by learned Judicial Magistrate 1<sup>st</sup> Class, Gurugram on the ground that permission was granted to the petitioner to summon his witness on his own responsibility and after availing effective opportunities, last opportunity was afforded.



3. Learned counsel for the petitioner further submits that he wishes to withdraw his prayer with regard to quashing of the complaint (*supra*) and confines his prayer to the extent of seeking two more effective opportunities and undertakes to conclude its evidence and would not seek further adjournment and delay the matter in any manner. Learned counsel for the petitioner further submits that two witnesses are residing abroad and as such, their deposition can be done through video conferencing.

4. Having heard learned counsel for the petitioner and after perusing the record with his able assistance, the present petition is being decided in *limine*, without issuing notice of motion in order to save litigation cost of the respondent and judicial time of the Court.

5. This Court is of the considered opinion that, as far as possible, efforts must be made to ensure that the parties involved are allowed to present the best available evidence as that would lend credibility to the judicial proceedings. Denial of an opportunity, especially to the accused, to present the best available evidence or have an effective and substantial hearing, in order to prove his defence is in direct violation of the right to free and fair trial enshrined under Article 21 of the Constitution of India as well as the principles of natural justice. Hence, the learned Court below ought not to unnecessarily curtail the precious right of the defence to examine the witnesses.

6. Accordingly, without commenting further on the merits of the case, the impugned order dated 19.12.2024 (Annexure P-1) is hereby set aside and the present petition is disposed of in the following terms:

- (i) Learned Judicial Magistrate 1<sup>st</sup> Class, Gurugram is directed to grant two effective opportunities to the petitioner to conclude his evidence.



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(ii) Learned trial Court would be at liberty to have the deposition of the witnesses residing abroad through video conferencing in terms of High Court Rules framed in this regard as well as the judgment rendered by this Court in ***Sukhmanjit Singh Dhindsa vs. State of Punjab and others 2024(1) R.C.R.(Criminal) 636.***

7. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court.

8. Pending miscellaneous application(s), if any, shall also stand disposed of.

**(HARPREET SINGH BRAR)**  
**JUDGE**

**16.01.2025**

*Neha*

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