



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

**CRM-M-11541-2025
Decided on: April 08, 2025**

Gurpartap Singh @ Gora

.....Petitioner

Versus

M/s Shri Ram Transport Finance Company Ltd.

.....Respondent

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr. L.M. Gulati, Advocate, for the petitioner.

SANJAY VASHISTH, J.

1. Instant petition has been filed under Section 528 of the BNSS, 2023 (earlier Section 482 Cr.P.C.), seeking quashing of impugned order dated 06.08.2024 (Annexure P-11), passed by learned Judicial Magistrate Ist Class, Amritsar, vide which the application filed by the petitioner for recalling the witness, i.e. CW-Shakti Khurana, for his cross-examination, has been dismissed.

Further, quashing of order dated 20.01.2025 (Annexure P-13), passed by learned Judicial Magistrate Ist Class, Amritsar, has also been sought, whereby defense evidence of the petitioner/accused has been closed by order.

2. At the outset, learned counsel for the petitioner submits that though challenge has been made to the order dated 06.08.2024 (Annexure P-11), whereby application filed by the petitioner for re-calling of the witness, i.e. CW-Shakti Khurana, for his cross-examination, has been dismissed, however, he has received instructions not to press the said prayer. However, Mr. L.M. Gulati, prays for considering the second prayer made in the present petition, i.e. for grant of adequate opportunity for leading of defence evidence, which has been closed by order, vide impugned order dated 20.01.2025 (Annexure P-13).

3. Mr. L.M. Gulati, learned counsel for the petitioner, *inter alia*, contends that the petitioner was afforded opportunity for leading of



defence evidence for about five months, i.e. from 14.08.2024 to 20.01.2025. In fact, right of the accused is also to be considered at parity with the complainant/prosecution. In the present case, complaint under Section 138 of the Negotiable Instruments Act, 1881, was instituted by the respondent/complainant on 26.11.2019. On 06.01.2020, the petitioner was summoned to face trial, and since then the petitioner is facing prosecution. Respondent/complainant was afforded opportunity to lead its evidence from 21.03.2023 to 23.05.2025, during which several opportunities were granted by the learned Trial Court.

4. Further submits that statement of the petitioner, under Section 313 Cr.P.C., was recorded on 14.08.2024, and thereafter case was fixed for the first time for recording of defence evidence on 06.09.2024. Since adequate opportunity has not been granted to the petitioner, learned counsel prays for grant of two effective opportunities for the purpose of leading his entire defence evidence, subject to payment of reasonable cost, as may be fixed by this Court.

5. This Court has considered the submissions and after going through the record filed before it, found that it is the respondent/complainant who was afforded with several opportunities i.e. from 21.03.2023 to 23.05.2024, for the purpose of leading its evidence. On the contrary, the petitioner was granted opportunity from 14.08.2024 to 20.01.2025. Still the fact cannot be ignored that the petitioner is facing prosecution in the complaint case under Section 138 of the Negotiable Instruments Act, which was instituted on 26.11.2019, at the behest of the respondent/complainant. His right to lead adequate defence evidence is fore-closed, thereby defeating the very purpose of justice in criminal jurisprudence, would get defeated. It is the petitioner/accused herein who has to defend the charges against him, and for disproving of the same, adequate opportunities are definitely to be afforded to him, failing which it would be sheer violation of the principles of natural justice, i.e. not affording adequate opportunity of explanation/hearing.

6. In light of the above, impugned order dated 20.01.2025 (Annexure P-13), passed by learned Judicial Magistrate Ist Class,



Amritsar, closing the defence evidence of the petitioner/accused by order, is set aside. It is directed that the petitioner shall be afforded two effective opportunities, post 16.04.2025, when the case is listed before the learned Trial Court to decide the fate of the trial, for the purpose of leading his entire defence evidence.

7. However, this order shall be subject to the payment of Rs.10,000/- as costs, to be deposited by the petitioner in an Old Age Home of the area, as may be decided by the learned Trial Court. The Trial Court shall also specify the time frame within which such costs will be required to be deposited, but not more than two weeks, failing which this order would not be of any advantage to the petitioner.

8. With aforementioned terms, present petition stands disposed of.

(SANJAY VASHISTH)
JUDGE

April 08, 2025
Pkapoor

Whether Speaking/Reasoned: **YES/NO**
Whether Reportable: **YES/NO**