

Present:- Complainant with counsel Sh. Rk Gupta, Advocate.

Accused on bail with counsel Sh. SK Gaurav Chopra, Advocate.

Heard on the application u/s 145(2) NI Act for permission to cross-examination of the complainant. It has been averred in the application that the accused want to cross examine complainant as there is no legal liability of the complainant as the accused has never issued the cheque to the complainant for any legal liability. It is further submitted that cross-examination of the complainant is very much necessary for the just decision of the case. Lastly prayer for allowing has been made and further prayed that complainant be called for cross-examination in the interest of justice.

2. A detailed reply to present application has been filed by the complainant taking preliminary objection that the present application is not maintainable. The accused in is application has not mentioned on which the points he wants to cross-examine the complainant. The heavy burden is upon the applicant/accused that why and how the cheque in question came into the custody of the complainant and why the accused issued the cheque to the complainant. For that he can lead the defence evidence because the onus shifts upon the accused. **On merits**, all the averments are denied being wrong and incorrect and as such prayed that the present application deserves to be dismissed.

3. **I have considered the contradictory version of of the contesting parties and have deliberated over the arguments advanced in the light of pleadings, documents, and peculiar facts and circumstances of the case in hand.**

4. By way of present application, the accused/applicant has sought permission of the Court to re-call the complainant for hiss cross-examination by invoking the provision of Section 145(2) of N.I. Act, 1881 which provides that *“that the court may if it thinks fit, and shall, on the application of the prosecution or the accused, summon and examine any person giving evidence on affidavit as to the facts contained therein.”* In complaint, the complainant has specifically averred that accused has taken loan of Rs.2,00,000/- and in discharge of his legal liability has issued the cheque in question. The accused has raised serious question with regard to advancement of loan, issuance to cheque in favour of the complainant. To the mind of this Court, there are certain facts which are required to be brought on record and for this purpose, the cross-examination of the complainant is necessary. A great prejudice would be caused to accused if the said permission is not granted.

5. With these observations, the application under consideration stands allowed and now to come up on **07.03.2019** for cross-examination of the complainant. It is made clear that only two effective opportunities shall be given to accused for cross-examination of complainant.

Pronounced in the open Court:

Dated;05.02.2019

Sonia

**(Riffi Bhatti), PCS
JMIC/Samrala
(UID No.PB0563)**

Present:- Complainant with counsel Sh. Rk Gupta, Advocate.

Accused on bail with counsel Sh. SK Gaurav Chopra, Advocate.

Heard on the application u/s 145(2) NI Act for permission to cross-examination of the complainant. Vide my separate detailed order of even date, the present application stands allowed and now to come up on **07.03.2019** for cross-examination of the complainant. It is made clear that only two effective opportunities shall be given to accused for cross-examination of complainant.

Dated:05.02.2019

Name of Steno:Sonia

Next Date: 07.03.2019

Purpose:

(Riffi Bhatti)

JMIC/Samrala

(UID No.PB0563)