

*Before Vikas Bahl, J.*

**RASHMI GARG AND ANOTHER—Petitioner**

versus

**PARKIRTI BANSAL AND ANOTHER—Respondent**

**CRM-M No.30417 of 2021**

January 05, 2022

*Negotiable Instruments Act, 1881—S.138—Code of Criminal Procedure, 1973— S.482—Petitioner issued summoning order under Section 138 of N.I.Act—Petitioner filing revision petition before the Sessions Court along with an application seeking exemption to file the revision petition without the hard copy of the impugned order, as certified copy was not available—Sessions Court without deciding the application for exemption dismissed the revision petition in default on the ground that certified copy of the impugned order has not been filed—Order set aside.*

*Held that*, perusal of the record shows that along with the revision petition, which had been filed by the petitioners against the order summoning petitioner No.1 dated 09.08.2019, she had also moved an application for granting exemption for filing the certified copy of the impugned order and sought the permission to file the same with the hard copy. The reasons given in the application were supported by the application dated 22.02.2021 (Annexure P-18). The Sessions Judge, Ludhiana without considering the said application has dismissed the revision petition in default by passing a cryptic and non-speaking order. Before passing the said order, it was incumbent upon the Sessions Judge, Ludhiana to have considered the application of the petitioners for grant of exemption which was filed alongwith the revision petition. It was open to the Sessions Judge, Ludhiana to either allow or dismiss the application by giving reasons in accordance with law. However, the same has not been done and thus, dismissal of the revision petition filed by the petitioner, in default, vide the impugned order dated 24.02.2021 (Annexure P-19) is illegal and deserves to be set aside on this ground alone.

(Para 5)

*Further held that*, present petition is allowed and the order dated 24.02.2021 (Annexure P-19) is set aside with a direction to the Sessions Judge, Ludhiana to pass a fresh order on the revision petition

filed by the petitioners after considering the application for grant of exemption filed along with the revision petition. The Sessions Judge, Ludhiana is directed pass a specific order on the application for exemption after recording reasons. The fresh order be passed within a period of one month from the date of appearance of the parties before the Sessions Judge, Ludhiana. The parties are directed to appear before the Sessions Judge, Ludhiana through their counsel on 12.01.2022.

(Para 6)

Rajesh Punj, Advocate,  
*for the petitioners.*

None for the respondents.

### **VIKAS BAHL, J. (ORAL)**

(1) This petition has been filed under Section 482 Cr.P.C. for quashing of order dated 24.02.2021 (Annexure P-19), passed by Sessions Judge, Ludhiana.

(2) Learned counsel for the petitioners has submitted that in the present case against the order dated 09.08.2019 (Annexure P-2), summoning petitioner No.1 under Section 138 of the Negotiable Instruments Act on a complaint filed by respondent No.1, the petitioners had filed a revision petition dated 29.02.2020 (Annexure P-3) along with an application for granting exemption to file the revision petition with the hard copy of the impugned order generated through E-Courts. It has been submitted that in the said application, which is at page No.20 of the paperbook, it has been specifically stated that petitioner No.1 had not appeared in the said case and thus, certified copy was not available. Further, reference has been made to the Annexure P-18, which is an application dated 22.02.2021 for obtaining certified copy of the order and as per the endorsement in the said application, it has been stated that petitioner No.1 had not appeared in the present case and thus, the certified copy of the order had not been supplied to her. It is argued that the Sessions Judge, Ludhiana, vide impugned order, had without deciding the application for exemption which had been filed along with the revision petition, had dismissed the revision petition of the petitioners in default on the ground that the certified copy of the impugned order had not been filed.

(3) None has appeared on behalf of the respondents.

(4) This Court has heard learned counsel for the petitioners and has perused the paper-book.

(5) Perusal of the record shows that along with the revision petition, which had been filed by the petitioners against the order summoning petitioner No.1 dated 09.08.2019, she had also moved an application for granting exemption for filing the certified copy of the impugned order and sought the permission to file the same with the hard copy. The reasons given in the application were supported by the application dated 22.02.2021 (Annexure P-18). The Sessions Judge, Ludhiana without considering the said application has dismissed the revision petition in default by passing a cryptic and non-speaking order. Before passing the said order, it was incumbent upon the Sessions Judge, Ludhiana to have considered the application of the petitioners for grant of exemption which was filed alongwith the revision petition. It was open to the Sessions Judge, Ludhiana to either allow or dismiss the application by giving reasons in accordance with law. However, the same has not been done and thus, dismissal of the revision petition filed by the petitioner, in default, vide the impugned order dated 24.02.2021 (Annexure P-19) is illegal and deserves to be set aside on this ground alone.

(6) Accordingly, the present petition is allowed and the order dated 24.02.2021 (Annexure P-19) is set aside with a direction to the Sessions Judge, Ludhiana to pass a fresh order on the revision petition filed by the petitioners after considering the application for grant of exemption filed alongwith the revision petition. The Sessions Judge, Ludhiana is directed pass a specific order on the application for exemption after recording reasons. The fresh order be passed within a period of one month from the date of appearance of the parties before the Sessions Judge, Ludhiana. The parties are directed to appear before the Sessions Judge, Ludhiana through their counsel on 12.01.2022.

(7) It is made clear that this Court has not opined on the merits of the application for exemption/revision petition and thus, it would be open to the Sessions Judge, Ludhiana to adjudicate upon the same independently and in accordance with law.

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*Inder Pal Singh Doabia*