S.No.260

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-M-37435 of 2018 (O&M)
Date of Decision:29.10.2018

Jatinder Pal Singh .....Petitioner

Vs.

Krishan Kishore Bajaj .....Respondent

CORAM:- HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present:- Mr. Lalit Kumar, Advocate for
Mr. John Kumar, Advocate
for the petitioner.

Mr. Krishan Kishore Bajaj,
Respondent in person.

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Rajbir Sehrawat, J.(Oral)

This is a petition challenging order dated 02.08.2018 (Annexure P.1) passed by Judicial Magistrate Ist Class, Amritsar vide which the application filed by the petitioner/ accused; for ordering the voice samples of the complainant; for comparison of the same with the recording produced by the accused; has been rejected.

The brief facts leading to the present petition are that the complaint was filed by the respondent against the present petitioner alleging that the petitioner/ accused was having friendly relation with the respondent/ complainant and the petitioner requested the respondent to advance him some friendly loan. Accepting this request, the respondent had advanced to petitioner a friendly loan of Rs.49,000/- and the petitioner had agreed to repay the said amount within a short time. After some time, the petitioner had given a cheque bearing No.649262 dated 19.03.2016; for an amount of Rs.49,000/- drawn upon Punjab and Sind Bank, Jhabwasti Ram, Amritsar, with the assurance that the cheque will be honored on its

presentation. This cheque was duly signed by the petitioner and was handed over by the petitioner to the respondent in discharge of his loan liability. The cheque was sent by the respondent to his banker. However, the same was returned by the bank of the petitioner; since there was no funds in the said account of the petitioner to meet the amount of the cheque. Resultantly, the cheque was returned as dishonored; vide memo dated 21.03.2016, with remarks as "Account Closed". Thereafter, a notice was served by the respondent upon the petitioner requiring him to make the payment. However, still the payment was not made. Hence, the complaint under Section 138 of the NI Act was filed against the present petitioner.

The complainant led his evidence in support of the complaint. Thereafter, the evidence of the petitioner/ accused was started. The accused tendered his affidavit in defence evidence; and also tendered three articles containing the computer output of an alleged conversation between the petitioner and the respondent, as Ex.D1 to Ex.D3. Out of these, Ex.D1 is the Pen Drive, Ex.D2 is the CD with regard to Ex.D1 and Ex.D3 is the transcription of the documents Ex.D1 and Ex.D2. However, while the accused was tendering these in evidence, the complainant had raised objections against these electronic items qua their admissibility and mode of proof.

Thereafter, the petitioner filed an application dated 03.04.2018; praying for giving a direction to the complainant to give his voice sample in the Court and for sending the same for comparison with the voice recordings; as contained in Pen Drive Ex.D1 and the CD Ex.D2. One significant aspect of the application is that it is nowhere disclosed as to from where these recordings have come, what was the device/instrument used for

recording these conversations and at what time and in what context, these alleged recordings were made. On the contrary, only additional allegations were sought to be levelled in the application to the effect that the complainant was involved in business of advancement of short-term; small amounts; as loans at exorbitant rates.

The respondent contested this application by filing a reply. It was averred in the reply to the application that the petitioner is estopped by his own act and conduct from filing the present application; because he has already admitted orally that he is ready to make the payment of the cheque amount to the complainant in four instalments. It was further averred that the petitioner is a very clever person and the possibility of him fabricating CD cannot be ruled out in these days of advanced electronic and computerised systems. Since the requirement of the Indian Evidence Act has not been complied with while filing the application, therefore, the petitioner could not be allowed to create false evidence through the articles mentioned in the application. Resultantly, it was averred in the reply to the application that the complainant had already raised his objection qua the mode of proof of the articles Ex.D1 and Ex.D2, therefore, there is no basis for giving direction for voice samples of the complainant. Hence, the prayer was made for dismissal of the application.

After considering the rival contentions, the Judicial Magistrate Ist Class, Amritsar; vide his impugned order dated 02.08.2018 dismissed the application filed by the present petitioner. While dismissing the application, the trial Court has recorded that it is not mentioned by the applicant as to by what device or instrument the recording was done and the accused has not placed on record even affidavit and certificate regarding authenticity of the

recording. It was further recorded by the trial Court that no date, month, or time of recording is mentioned by the applicant. Still further, the trial Court recorded that even the cross-examination of the complainant by the accused/ petitioner reveals that the accused had not even put any question to the complainant regarding the recording of any conversation; which has now been sought to be produced on record. The trial Court also recorded that the applicant himself has admitted as having issued a cheque to the complainant relating to some "committee"; which is allegedly being run by the complainant. Still further, the applicant claims the presence of eight persons at the time of recording, however, not even a single person has been examined by the applicant to prove such conversation. Resultantly, the trial Court held that the authenticity of the recording has not even been remotely claimed and proved by the applicant. Therefore, the same cannot be taken to be the evidence; which might be requiring its comparison with the voice sample of the complainant. The trial Court also recorded that the case is pending for defence evidence since 13.12.2017 and the present application has been filed only as a modality of delaying the trial. As a result, the application filed by the petitioner was dismissed. That is how the present petition has come before this Court; challenging the order dated 02.08.2018.

Counsel for the petitioner argued that the accused has a right to fair trial. In exercise of his right to defend himself, the petitioner is entitled to lead the evidence of his choice. Counsel has relied upon judgment of the Hon'ble Supreme Court rendered in **2008 (3) RCR (Criminal) 926 - T. Nagappa v. Y.R. Muralidhar** to contend that since there is a presumption raised under Section 139 of NI Act, therefore, an opportunity must be granted to the accused for adducing evidence in rebuttal of the prosecution.

The accused must be granted full opportunity to rebut the presumption raised against him. Counsel has further relied upon the judgment of this Court rendered in **CRM-M-4316 of 2018 decided on 20.07.2018 – M/s P.L.Forging Pvt. Ltd. and another v. M/s Bhushan Power & Steel Ltd.**, to contend that the accused can be permitted to examine the handwriting expert, as desired by him; because by permitting him to do so, the opportunity would be granted to the accused; whereas no prejudice would be caused to the complainant. Counsel has further relied upon judgment of Madras High Court reported in **2014 (32) RCR (Criminal) 594 – P. Mariya Selvaraj v. C. Ganesan** to contend that relevance of tape recorded conversations between the parties is no more res integra; in view of the various judgments of the Hon'ble Supreme Court; and to further contend that even the CD containing conversation is relevant under Section 7 of the Indian Evidence Act. The counsel has also relied upon the judgment of the Hon'ble Supreme Court rendered in **1973 AIR (SC) 157 – R.M. Malkani v. State of Maharashtra,** to buttress his argument that the tape recording conversation is admissible; if the same is relevant to the matter in issue. Still further, the counsel for the petitioner has relied upon the judgment of the Supreme Court in **2018(3) RCR (Criminal) 388, Shafhi Mohammad v. State of Himachal Pradesh** to contend that the requirement of certificate, as provided under Section 65(B) of the Indian Evidence Act, is not mandatory in all cases. Hence, it is prayed that the present petition be allowed and the trial Court be directed to get voice samples of the complainant compared with the recordings contained in Ex.D1 and Ex.D2, which are the recorded versions of the conversation between the petitioner/accused and the respondent/complainant.

On the other hand, the respondent has appeared in person and has contended that he has already averred in his reply to application of the petitioner that he has never had any such conversation with the petitioner, as contained in the Pen Drive and CD; Ex.D1 and D.2. These are totally fabricated recordings, created by the petitioner; using the technology tools; with a view to put wrong facts before the Court. The respondent has further submitted that the petitioner has not disclosed anywhere as to when this conversation was recorded, by which device it was recorded and also; it has not been supported by way of any definite evidence that the recording was authentic. It is further submitted by the respondent that the petitioner has been adopting delaying tactics; so as to harass the respondent. The present application and the consequent petition before this Court is also part of the same plan of the petitioner. Otherwise, the petitioner had already admitted that he could re-pay the entire amount to the complainant/ respondent in four instalments. Hence, it is submitted that the present petition deserves to be dismissed.

Having heard the counsel for the petitioner and the respondent in person, this Court finds that the trial Court has not committed any illegality or irregularity in dismissing the application moved by the petitioner. The arguments raised by the learned counsel for the petitioner are found to be without any basis of pleadings or the evidence. On the other hand, the submissions made by the respondent are found by this Court to have sufficient substance. So far as the judgments relied upon by the petitioner are concerned, the same are distinguishable on the facts of the present case.

There is no dispute that if the information contained in the

alleged recorded conversation is pertaining to a relevant fact then the recording itself is relevant and can be admissible in evidence. However, even for proof of an admissible evidence, the mode prescribed for proving the same has to be adhered to by the parties; so as to ensure the compliance of the legal provisions of evidence; since the proceedings have the capability of effecting the rights of the parties. The advancement of information technology is a recent trend. Hence, the law of evidence also has to keep pace with the advancement of technology. Plethora of information is stored on or created through the devices popularly called as computers or the metamorphosed form of the same, like the mobile phones, which are also based upon computer processor. The litigating parties were bound to rely upon such information; created as computer output. Resultantly, Section 65-A and Section 65-B were added; by way of Amendment Act No.21 of 2000; to the Indian Evidence Act. Section 65-A provides that contents of electronic record may be proved in accordance with the provisions of Section 65-B. Then Section 65-B gives the complete methodology of proving the admissible electronic records. The relevant provision in this regard is reproduced hereinbelow:-

> **"Section 65B in The Indian Evidence Act, 1872**
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> 65B. Admissibility of electronic records.—
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> (1) Notwithstanding anything contained in this Act, any information contained in an electronic record which is printed on a paper, stored, recorded or copied in optical or magnetic media produced by a computer (hereinafter referred to as the computer output) shall be deemed to be also a document, if the conditions mentioned in this section are satisfied in relation to

the information and computer in question and shall be admissible in any proceedings, without further proof or production of the original, as evidence of any contents of the original or of any fact stated therein of which direct evidence would be admissible.

(2) The conditions referred to in sub-section (1) in respect of a computer output shall be the following, namely:—

(a) the computer output containing the information was produced by the computer during the period over which the computer was used regularly to store or process information for the purposes of any activities regularly carried on over that period by the person having lawful control over the use of the computer;

(b) during the said period, information of the kind contained in the electronic record or of the kind from which the information so contained is derived was regularly fed into the computer in the ordinary course of the said activities;

(c) throughout the material part of the said period, the computer was operating properly or, if not, then in respect of any period in which it was not operating properly or was out of operation during that part of the period, was not such as to affect the electronic record or the accuracy of its contents; and

(d) the information contained in the electronic record reproduces or is derived from such information fed into the computer in the ordinary course of the said activities.

(3) Where over any period, the function of storing or processing information for the purposes of any activities regularly carried on over that period as mentioned in clause (a) of sub-section (2) was regularly performed by computers, whether—

(a) by a combination of computers operating over that period; or

(b) by different computers operating in succession over that period; or

(c) by different combinations of computers operating in succession over that period; or

(d) in any other manner involving the successive operation over that period, in whatever order, of one or more computers and one or more combinations of computers, all the computers used for that purpose during that period shall be treated for the purposes of this section as constituting a single computer; and references in this section to a computer shall be construed accordingly.

(4) In any proceedings where it is desired to give a statement in evidence by virtue of this section, a certificate doing any of the following things, that is to say,—

(a) identifying the electronic record containing the statement and describing the manner in which it was produced;

(b) giving such particulars of any device involved in the production of that electronic record as may be appropriate for the purpose of showing that the electronic record was

produced by a computer;

(c) dealing with any of the matters to which the conditions mentioned in sub-section (2) relate, and purporting to be signed by a person occupying a responsible official position in relation to the operation of the relevant device or the management of the relevant activities (whichever is appropriate) shall be evidence of any matter stated in the certificate; and for the purposes of this sub-section it shall be sufficient for a matter to be stated to the best of the knowledge and belief of the person stating it.

(5) For the purposes of this section,—

(a) infomation shall be taken to be supplied to a computer if it is supplied thereto in any appropriate form and whether it is so supplied directly or (with or without human intervention) by means of any appropriate equipment;

(b) whether in the course of activities carried on by any official information is supplied with a view to its being stored or processed for the purposes of those activities by a computer operated otherwise than in the course of those activities, that information, if duly supplied to that computer, shall be taken to be supplied to it in the course of those activities;

(c) a computer output shall be taken to have been produced by a computer whether it was produced by it directly or (with or without human intervention) by means

of any appropriate equipment. Explanation.—For the purposes of this section any reference to information being derived from other information shall be a reference to its being derived therefrom by calculation, comparison or any other process."

Section 65-B of the Indian Evidence Act starts with a `non obstante' clause which makes the Section prevalent over any other Section as contained in the Evidence Act. No doubt, the non-obstante clause has to be interpreted in a contextual perspective, despite that, it cannot be denied that because of the non-obstante clause used in Section 65-B of the Indian Evidence Act, this Section would be the governing code for the admissibility of the electronic record; existing in whatever form; and despite being the subject matter of any other provision of the Indian Evidence Act. This Section creates a deeming fiction of being a "document" in favour of the electronic record, as contained in any recording media. However, for attaching this deeming fiction to such an electronic records; for being a deemed `document', conditions have been prescribed by Section 65-B, which are mandatorily to be satisfied for leading the said electronic record in evidence as a `document'. Unless these conditions are fulfilled the electronic information/record or the computer output cannot be categorised as a `document'. So there is no question of the same being permissible to be led in evidence. The main conditions laid down in the Section are:-

(i) the computer output, sought to be produced in evidence; must have been produced <u>by a computer which was being used regularly</u> for storing or process of the said information;

(ii) such computer output, as sought to be produced before the Court, should have been entered into the computer for an activity which regularly carried out on that computer during the relevant period;

(iii) such a regular activity on that computer must have been carried out by a person having lawful control over the use of that computer;

(iv) the kind of information sought to be produced before the Court must be the information which was regularly fed in such a computer in ordinary course of the said activity;

(v) such a computer, from which the information sought to be produced before the Court, was taken, should have been operated properly during the period when the information was processed by the computer, and if there was any defect in that computer, then the defect should not be of that nature which could have affected the electronic record or the accuracy of its contents;

(vi) the information sought to be produced must be the exact copy of the information which was fed in the computer in ordinary course of such activities.

This Section further provides that to authenticate the above requirements, a certificate signed by a person; occupying a responsible position in relation to the operation of the relevant computer/ device; shall be required:-

(i) identifying the electronic record which is sought to be produced before the Court, as well as, describing the

manner in which it was produced;

(ii) giving particulars of device involved in production of that record and certifying that the device was being operated during the relevant period in the manner as required by the Section.

The electronic records containing electronic information are processed and created on computing devices consisting of processor and working on variety of factors. After processing the raw information, like strokes from a keyboard, the computer processor creates the `machine readable' information and sends it to the default storage memory device. However, before so storing, the said machine readable electronic record is created through the computer language; which is a binary digital language comprising of '1' and '0'. The machine readable information comprises of digital codes; which are created by arranging the digits of `1' and `0' by assigning them arithmetical values. Almost entire electronic record, therefore, is nothing but storage of digital codes of `1'(one) and `0'(zero), arranged in different numbers and patterns to create different piece of information. One linguistic sentence of information may have millions of digits of `1' (ones) and `0' (zeros) arranged in a particular manner, which would constitute the computer output for that sentence. Similarly, the other linguistic sentence containing the information, would again, have millions of digits of `1' (ones) and `0' (zeros) arranged in a different manner. The same applies to a photographic evidence, audio evidence or the video evidence. Hence, as of today, the electronic record is nothing but a digital codes format; which exists only in the form of digits of `1' (ones) and `0'

(zeros) arranged in different manners. This digital information is stored on memory device of computer. This processed information can also be stored on as small device as a Micro SD card or the Pen Drive. Besides this, the electronic record can be reproduced on the optical and magnetic devices like the CD or the tape record. As is obvious, the tape records are already phased out. Its only the optical devices like the Hard Disc Drive, CD or the electronic storage devices like the Solid State Drive, Pen Drive and Data Cards, which are used. But all this information is readable only by machines. For making this information cognizable by human beings, it would be required to be converted in suitable output through other devices like, printer or a screen.

Since, the electronic information record is comprised in digital codes formats, therefore, by using appropriate softwares & hardwares, virtually any information can be created by arranging those digits in that particular manner, so as to create the digital information; containing therein a linguistic sentence or a sentence of conversation in audio form. Once an information is created, its mirror image can be used by a person claiming it to be the copy of the original. Still further, by passing the so created information through the appropriate filters of softwares, data or the filters of pitch and frequency, which again would be in the digital form, voice of anybody can be re-created by the experts of the computer field. Hence, since the entire computer information is in the form of precise digital form only, therefore, the same can be created as `original' also with the same precision, even without the risk of possibility of the fabrication being easily detected. Its only the question of as to what is the level of expert who is creating the digital information. Hence, the digital information has to be

treated with due suspicion and more stringent test has to be applied to it than the ordinary evidence, as has been held by the Hon'ble Supreme Court in its judgment rendered in **2010(1) RCR (Civil) 959 – Tukaram S. Dighole v. Manikrao Shivaji Kokate**. Hence, the authenticity of the recording of the information is as important as the content of the information itself, lest the Court should be taken for a ride by unscrupulous experts in the field of the fabrication of the information. Accordingly, the above mentioned Section 65-B of the Indian Evidence Act has laid down a strict test to ascertain the authenticity of the creation or the recording of the information.

What is permissible to be led in evidence under Section 65-A and 65-B of Evidence Act is the computer output of Electronic Information. As mentioned above, the computer output is the retrieval of the electronic information, which is otherwise readable only by a machine, into an output which is recognisable by human senses, like, text print-out on a page, video on a screen or audio played on a device. Before being retrieved through an output device, like printer, screen or audio device, the electronic information is in existence and is stored in the form of processed digital codes, created through the computer processor. The same piece of machine readable information can be retrieved in different manner and different forms on different types of output devices. For example, a page of information typed as electronic information in M.S. Word can be seen on screen; as well as; can be printed out on a sheet of paper. Therefore, the original electronic information is the information which is present in the forms of digital codes stored on default memory device. The computer output of the same is only reproduction of the same in different formats.

Therefore, it is only this default memory device which contains the `Primary' information created by the computer processor. Any copy of this on any other device is only a `Secondary' information or the secondary evidence in legal parlence. However, what is normally sought to be produced before the Court in evidence is either the `output' or the `copy' of the original information stored as digital codes. Therefore, the conventional catagorization of evidence in `Primary' and `Secondary' evidence does not strictly holds good in case of electronic record or the computer output. Hence, Section 65-B of Evidence Act insists for certificate qua the authenticity of electronic evidence; without making any distinction of `Primary' or `Secondary' evidence, unlike the other documentary evidence.

The above said provision of the Indian Evidence Act, which has been specifically added by the legislature and which uses a non obstante clause over-riding any other provision contained in the Evidence Act, shows that the authenticity of the instrument of recording of information and the mode of recording and also the recording itself, are as much important as the contents of the information sought to be produced before the Court itself are. Hence, besides the relevance of the contents of the information, the authenticity of the recording device, its proper functioning and the information being correct output of the recording are equally important corner stones; for permitting any electronic evidence to be led in evidence before the Court.

Although there are certain judgments, including from the Hon'ble Supreme Court, to say that in case the electronic evidence is produced by a party in the form of primary evidence then the certificate as required under Section 65-B(4) of Indian Evidence Act may not be required,

however, those judgments pertained to the electro magnetic recording in the form of audio tapes. In those cases, the original audio tapes were sought to be produced before the Court. However, the same analogy may be hard to be applied in case of computer output; without insisting for authenticity of and source of recording. Therefore, the Hon'ble Supreme Court of India in **2017(3) RCR (Criminal) 786 – Sonu @ Amar v. State of Haryana**, has held that an electronic record is not admissible unless it is accompanied by a certificate as contemplated under Section 65-B(4) of Indian Evidence Act. The position has further been clarified by a three Judges Bench of the Hon'ble Supreme Court of India in **2015 (1) SCC (Civil) 27 – Anvar P.V. Vs. P.K. Basheer and others**, wherein the Supreme Court specifically overruled its earlier judgment and held as under:-

> "22. The evidence relating to electronic record, as noted herein before, being a special provision, the general law on secondary evidence under Section 63 read with Section 65 of the Evidence Act shall yield to the same. Generalia specialibus non derogant, special law will always prevail over the general law. It appears, the court omitted to take note of Sections 59 and 65A dealing with the admissibility of electronic record. Sections 63 and 65 have no application in the case of secondary evidence by way of electronic record; the same is wholly governed by Sections 65A and 65B. To that extent, the statement of law on admissibility of secondary evidence pertaining to electronic record, as stated by this Court in Navjot Sandhu case (supra), does not lay down the correct legal position. It requires to be overruled and we do so. An

> electronic record by way of secondary evidence shall not be admitted in evidence unless the requirements under Section 65B are satisfied. Thus, in the case of CD, VCD, chip, etc., the same shall be accompanied by the certificate in terms of Section 65B obtained at the time of taking the document, without which, the secondary evidence pertaining to that electronic record, is inadmissible."

Hence, it is conclusively held by the Supreme Court that any reproduction of a computer record, 'primary' or 'secondary', cannot be led in evidence in the form of Pen Drive or the CD unless the authenticity of the device through which it is lawfully recorded and the authenticity qua the feeding of data in normal course of a regular activity of computer operation is claimed and established before the Court; by producing the certificate as prescribed under Section 65-B(4) of Indian Evidence Act.

Although counsel for petitioner has relied upon the judgment from the Hon'ble Supreme Court rendered in **2018(3) RCR (Criminal) 388 – Shafhi Mohammad v. State of Himachal Pradesh**, in which it has been held by a two Judges Bench of the Hon'ble Supreme Court that the requirement of certificate under Section 65-B(4) of the Evidence Act would be applicable only when such electronic evidence is produced before the Court by a person who is in position to produce such a certificate, being in the control of the said computer device and further that such a certificate is not to be insisted upon when such an electronic record is sought to be produced by the opposite party. However, even in this judgment, it has been emphasised that such an electronic evidence, as sought to be produced before the Court; has to be authentic and relevant. Otherwise this judgment,

which holds that the requirement of the certificate under Section 65-B(4) is not always mandatory; is by a Bench of two Hon'ble Judges of the Hon'ble Supreme Court, whereas the earlier judgment, making the certificate to be mandatory, is by a Bench of three Hon'ble Judges of the Supreme Court and the three Judges' Bench judgment was delivered by specifically overruling the earlier judgment of the Supreme Court itself. Therefore, in the considered opinion of this Court, the three Judges' Bench Judgment would be binding precedent for this Court, as held by Hon'ble Supreme Court in case of **National Insurance Company Limited v. Pranay Sethi and others,** 2017(4) RCR (Civil) 1009. Even if the judgment in **Shafhi Mohammad (supra)** is considered to be a precedent; then this judgment also has emphasised upon the record being authentic and relevant. Therefore, the authenticity of the information remains the core aspect in case of electronic evidence. Unless the authenticity of the electronic record is pleaded and established by the party seeking to lead in evidence the electronic record, the same cannot be permitted by the Court.

Coming to the facts of the present case, the petitioner had not even disclosed in his application as to when the information; as contained in Pen Drive and the Compact Disc, was recorded. It is also not disclosed as to what was the original instrument/ computer/device through which the information as contained in Pen Drive and CD was recorded. Even this is not disclosed as to what was the activity, which was being regularly carried out; during regular operation of which; the respondent had made the admitting statement; as contained in the Pen Drive and the CD sought to be produced on record by the petitioner. Even during the arguments of the present petition, the petitioner has not been able to disclose as to when and

through which instrument, the alleged information contained in Pen Drive and CD was recorded. Therefore, the pleadings and the arguments of the petitioner are singularly silent qua the authenticity of the information as contained in the Pen Drive and the CD. As a result, the statement of the respondent that the information is totally unauthentic; finds acceptance with this Court. Since there is nothing on record to show the authenticity of the information as contained in Pen Drive and CD, the trial Court has rightly declined the same to take into consideration. Since the information as contained in the Pen Drive and CD itself has been found to be non-authentic by the trial Court, therefore, there is no question of the trial Court directing the respondent to give his voice samples; for being compared with the voice as contained in the Pen Drive and the CD. Hence, the trial Court has rightly dismissed the application filed by the petitioner.

In view of the above, finding no merit in the present petition, the same is dismissed.

However, since the complaint itself is of the year 2016, and it is still pending, although the same was required to be finally decided within a period of six months, therefore, it is directed that the trial Court of the complaint itself would be completed by the trial Court within a period of two months; from the date of receipt of the certified copy of this order.

October 29, 2018 **(RAJBIR SEHRAWAT)**
renu **JUDGE**

Whether Speaking/reasoned Yes/No
Whether Reportable Yes/No