

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

**CR No.1009 of 2015
Date of Decision:18.02.2015**

Mohinder Singh

. . . . Petitioner

Vs.

Vinod Kumar

. . . .Respondent

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: Mrs.Balwinder Kaur, Advocate,
for the petitioner.

RAKESH KUMAR JAIN, J.

The petitioner is aggrieved against the order dated 29.1.2015 whereby his application for recalling of the conditional warrant has been declined.

In short, there is a decree against the petitioner dated 18.10.2008. The petitioner has been avoiding the recovery of amount and has been evading his arrest since 2.3.2013. The conditional warrant issued for the arrest of the petitioner was received unexecuted but he moved an application for recalling of the conditional warrant by filing an application dated 20.1.2015 in which notice was issued to the decree-holder, who instead of wasting any time agreed to argue the case without reply. The learned Court below dismissed the application of the petitioner observing that the detailed order dated 12.9.2014, allowing the

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request for issuance of conditional warrant has already been passed but despite that the petitioner/judgment-debtor is not making the payment in accordance with the decree passed against him on 18.10.2008.

The trial Court thus, in continuation of the order dated 12.9.2014 and subsequent orders dated 21.10.2014, 26.11.2014 and 16.12.2014 ordered for issuance of fresh warrant of arrest with a condition that if the petitioner pays the amount of ₹4,94,251/-, he may be released immediately after the receipt of the payment and the said payment be deposited in the Court immediately thereafter.

It is argued by learned counsel for the petitioner that the petitioner has the property, which could be attached and sold instead of his arrest. In this regard, she has relied upon a decision of this Court in the case of **“Ummar Mohd. and another Vs. Ajeem and others”** 2014 (1) Law Herald 815, to contend that arrest of the petitioner should have been a last resort.

I have heard learned counsel for the petitioner and after perusal of the record, am of the considered opinion that the petitioner/judgment-debtor has been evading compliance of the decree dated 18.10.2008 and of course his arrest since 2.3.2013. In respect of the sale of his immoveable property, the Court had already passed a detailed order on 12.9.2014 providing reasons for the issuance of conditional warrant that despite having sufficient means he is not making the payment to the decree-holder.

With these circumstances, no leniency can be shown to the petitioner, who is not ready to comply with the decree of the year 2008 though six years have already been passed thereafter.

In view of the above, I do not find any merit in the present revision petition and the same is hereby dismissed.

18.02.2015

Vivek

**(RAKESH KUMAR JAIN)
JUDGE**