

CR No.379 of 2015

[1]

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

**CR No.379 of 2015
Date of decision:16.01.2015**

Goldy @ Gagandeep

...Petitioner

Versus

Punit Kaur and others

...Respondents

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Ramneek Vasudeva, Advocate,
for the petitioner.

Rakesh Kumar Jain, J.

The petitioner is aggrieved against the order dated 24.09.2014 by which he has been ordered to be put in civil prison for a term of 3 months for non-compliance of the award dated 01.04.2010 passed by the Motor Accident Claims Tribunal, Ropar (here-in-after referred to as the "Tribunal") in MACT Case No.22 of 27.02.2009.

In short, the Tribunal allowed the claim petition filed by the claimants against the petitioner on 01.04.2010. Thereafter, the claimants/decreed-holders filed the execution application in which the petitioner did not appear despite service and was proceeded against *ex parte* and warrants of attachment were issued regarding his Santro Car No.PB-11X-0838 which were also received back unexecuted and, thereafter, the vehicle was not found available. Thus, the decree-holder filed application for arrest of the petitioner who has not complied with the award and was trying to dispose of the property to avoid the attachment.

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It was found by the Tribunal that an award of ₹12,90,000/- along with interest was passed against the petitioner and the owner of the offending vehicle, namely, Ashish Kumar Sharma who did not deposit the decretal amount and avoided to appear before the Executing Court despite various efforts and even disposed of the property in their possession. Thus, the order was passed for the purpose of putting them in civil prison for a period of three months.

Counsel for the petitioner has argued that since the petitioner has no means to pay the decretal amount, the decree-holder was supposed to discharge his burden to prove that the judgment-debtor has means to pay the decretal amount before sending him in the civil prison.

After hearing learned counsel for the petitioner and examining the available record, I am of the considered opinion that there is no merit in his submission. The act and conduct of the petitioner is such which does not require any kind of order to find out the property in his possession as he did not appear despite service in the execution application and the warrants of attachment of his Santro Car were also returned to the Executing Court unexecuted. Therefore, the Executing Court has rightly passed the order for detaining him in civil prison for a period of 3 months on account of non-payment of the decretal amount.

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

January 16, 2015
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Rakesh Kumar Jain
Judge