

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

C.R. No.6292 of 2015

Date of Decision.21.04.2016

Gurcharan Singh

.....Petitioner

Vs.

Surinder Singh

.....Respondent

Present: Mr. Deepak Gupta, Advocate
for the petitioner.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

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K. KANNAN J. (ORAL)

1. Notice of motion.
2. Mr.B.S. Aulakh, Advocate accepts notice for the respondent.

With the consent of both the counsel, the revision petition itself is decided.

3. The revision petition is against the order directing the arrest of the judgment debtor. An application has been moved by the decree holder contending that the judgment debtor does not own either movable or immovable property and there is no means of causing any attachment. This itself ought to have been taken by the Court as justification for dismissal of the application for arrest. The Court has on a curious observation stated that since he has no means, he should be arrested. There can be no arrest without proof of means of the judgment debtor.

4. The counsel appearing on behalf of the respondent says that

he had lent money during his own good time and it is bad time now that he is unable to recover the amount from the judgment debtor. If it is bad time for the decree holder, it is just as well bad time for the judgment debtor and a good time for him to evade arrest. There is no compulsion possible for an arrest by the only fact that he has not made the payment. Arrest is possible only if the judgment debtor has means to pay but still refuses to pay.

5. The counsel points out to me that the Court had at some point of time directed the affidavit to be given by the judgment debtor giving the list of assets. If there is non-compliance of the direction, it affords a scope under the provisions of Civil Procedure Code to cause an arrest but the order of arrest now passed is not a non-compliance of the direction for disclosure of means by the judgment debtor.

6. The order cannot be sustained and it is set aside. The revision petition is allowed.

(K. KANNAN)
JUDGE

April 21, 2016
Pankaj*