

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

**CRM-M-16082-2016
DECIDED ON: May 10, 2016**

Delhi Control Devices Pvt. Ltd.

.....Petitioner...

VERSUS

State of Haryana and another

....Respondents...

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

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?

Present: Mr. Arjun Sanjay, Advocate,
for the petitioner.

JASPAL SINGH, J.

By virtue of instant petition preferred under Section 482 of the Code of Criminal Procedure, the petitioner has sought quashing of order dated 07.04.2016 passed by Id. Additional Chief Judicial Magistrate, Sonapat (Annexure P-1) in criminal case No. 648 of 2015 titled as “***S.K. Tampo Services vs. Delhi Control Devices Private Limited and others***”.

2. Undisputably, on the basis of preliminary evidence adduced in the complaint titled as “***S.K. Tampo Services vs. Delhi Control Devices Private Limited and others***”, accused-petitioner was summoned to face trial vide order dated 18.08.2015 under Section 138 of the Negotiable Instrument Act and the complaint was listed for 28.11.2015 for securing the presence of petitioner-accused. Subsequent thereto, complaint was adjourned for the aforesaid purpose

for 16.12.2015, 14.01.2016, 04.03.2016 and 07.04.2016.

3. The contention of learned counsel for the petitioner is that on the first date of hearing i.e. 28.11.2015, learned counsel representing petitioner-accused has specifically stated that the accused is ready to settle the matter and the same may be sent for mediation. Even on 07.04.2016, the petitioner appeared through his counsel with demand draft of principal amount. He was also ready to pay the interest @ ₹6% per annum since the date of payments but respondent No.2 started making exorbitant demands to the tune of ₹28,000/- for a bill which was unknown to the petitioner. The 1d. trial Magistrate without appreciating the bona fide intentions of petitioner, issued non-bailable warrants against the him for 23.05.2016 despite the fact that petitioner's counsel had appeared with demand draft in relation to the cheque amount and in such circumstances, the impugned order dated 07.04.2016 whereby the petitioner has been summoned through non-bailable warrants is not sustainable in the eyes of law and is liable to be set aside especially in view of the fact that it was the bona fide intention of the petitioner to settle the matter in controversy on payment of cheque amount along with interest.

4. The aforesaid submissions put forth by learned counsel for the petitioner have been carefully gone through but this Court does not find any merit therein for the simple reason that in compliance of order dated 18.08.2015, the petitioner did not appear in the witness-box, he never applied for bail and joined the proceedings. The mere fact that he was being represented by the counsel does not *ipso facto* mean that his personal appearance has been exempted by the court concerned. The mere fact that he opted to compromise the matter with complainant/respondent or that he was ready to make the payment of cheque amount along with interest does not mean that no

proceedings under Section 138 of the Act can be carried on against him. The non-appearance of the petitioner in compliance of order dated 18.08.2015 is suggestive of the fact that he is avoiding to appear in the Court due to which the proceedings in the complaint could not be carried on smoothly and the disposal thereof is being delayed. As such, the order dated 07.04.2016 can not be faulted with especially in the circumstances that the case was fixed for appearance of the petitioner and for furnishing the bail bonds but the petitioner did not turn-up despite having full knowledge in this regard. The instant petition is nothing but appears to have been filed just to circumvent the summoning order as well as the non-compliance thereof.

5. Finding no merit in the instant petition, the same is dismissed.

May 10, 2016
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(JASPAL SINGH)
JUDGE