

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

**CRL. MISC. No.M-11871 OF 2017 (O&M)
DATE OF DECISION : 17th APRIL, 2017**

Varsha Aggarwal

.... Petitioner

Versus

Avtar Singh

.... Respondent

CORAM : HON'BLE MR. JUSTICE A. B. CHAUDHARI

* * * *

Present : Mr. Shrey Goel, Advocate for the petitioner.

* * * *

A. B. CHAUDHARI, J. (ORAL)

Rule heard forthwith.

It is not necessary to issue notice to respondent-complainant since this Court is not making any order adverse to the interest of the respondent-complainant.

Learned counsel for the petitioner has invited my attention to the zimini orders. According to him after filing of the complaint under Section 138 of Negotiable Instruments Act (in short, NI Act), not a single zimini order shows zimini of accused summons to the petitioner. On the contrary, according to him the remark is that the petitioner has not been served. He submits that despite this position the trial Court has issued the order declaring her as proclaimed person and the revision filed by the petitioner has also failed.

I have perused the zimini orders produced on record.

Though it is true that zimini orders do not affirmatively show any service of the accused summons on the petitioner, the fact remains that the petitioner has not appeared before the trial Court. It is

not possible to accept the contention raised by counsel for the petitioner that the petitioner never knew about the pendency of the complaint against her.

I have perused the impugned orders passed by the trial Court as well as the revisional Court and there is no reason for me to differ from the reasons given by them.

Learned counsel for the petitioner made categorical statement on behalf of the petitioner before me that the petitioner would appear before the trial Court, obtain regular bail and thereafter participate in the proceedings before the trial Court till its completion and shall not jump the bail.

I think in a complaint case under Section 138 of NI Act there is no need to take the petitioner in custody for facing the trial. In other words, there is no need to curtail the liberty of the petitioner in a private complaint case under Section 138 of NI Act, particularly because the petitioner has given undertaking to appear before the trial Court, furnish bail bonds and thereafter to appear with promptitude before the trial Court for completion of the trial. The petitioner should be therefore, given chance to be at liberty.

In that view of the matter, without finding any fault with the impugned order in the light of the above observations, I make the following order:

ORDER

- (i) Rule is made absolute.
- (ii) Impugned orders dated 15.11.2016 and 17.03.2017 (Annexures P-4 and P-6) are quashed and set aside.

- (iii) The petitioner shall appear before the trial Court on 27.04.2017 and furnish bail bonds to the satisfaction of the trial Court.
- (iv) The petitioner shall file an undertaking before the trial Court to appear before the trial Court with promptitude and participate in the trial Court for completion of the trial.
- (v) In case the petitioner defaults in appearance before the trial Court the trial Court is at liberty to take the petitioner in custody and proceed further in accordance with law.
- (vi) The petition stands disposed of accordingly.

17TH APRIL, 2017
'raj'

(A. B. CHAUDHARI)
JUDGE

Whether speaking/reasoned:	Yes	No
Whether Reportable:	Yes	No.