

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

CRM-M-35783 of 2017  
Date of Decision: 04.12.2017

Suresh Jain

....Petitioner

Versus

State of Haryana and another

....Respondents

**CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN**

Present: - Mr. Gaurav Chopra, Advocate, for the petitioner.

**RAMENDRA JAIN, J. (ORAL)**

**CRM-37409 of 2017**

CRM is allowed. Annexures P-13 to P-17 are taken on record subject to all just exceptions.

**CRM-M-35783 of 2017**

Prayer in the instant petition under Section 482 Cr.P.C. has been made for setting aside order dated 18.09.2017 (Annexure P-1) of learned Sessions Judge, Gurugram, refusing to stay the proceedings in appeal of the petitioner, pending before the learned Additional Sessions Judge, Gurugram.

Put pithily, respondent No.2 filed a complaint against the petitioner under Section 138 of the Negotiable Instruments Act (in short the 'Act'), which, after due trial, was accepted by learned Judicial Magistrate Ist Class, Gurugram vide order dated 30.03.2016 holding the petitioner guilty. According to the learned counsel for the petitioner, petitioner was sentenced to simple imprisonment for three months and to pay compensation of ₹ 12,00,000/-.

Judge. During its pendency, on 29.07.2017 petitioner moved an application for exemption from his personal appearance annexing the copy of medical certificate on the ground of illness, which was declined by learned Additional Sessions Judge by passing the following order: -

*“An application for exemption from personal appearance on behalf of appellant filed. Heard. The appellant is filing successive application and as well as changing his counsel although he is right so but is not allowing the court to decide the merit inspite of the fact that the case is one of the 'Action Plan' cases. In view of the fact mentioned in the application, the same is declined, let, bail of appellant be cancelled and bail bonds are forfeited to State. Now warrant of arrest against him and notice u/s 446 Cr.P.C. to his sureties be issued returnable for 3.8.2017.”*

Being aggrieved, the petitioner filed CRM-M-28221 of 2017 before this court for setting aside the aforesaid order, in which notice of motion was issued to the opposite side and now is pending for 13.02.2018. Simultaneously, the petitioner also moved a transfer application before the learned Sessions Judge, Gurugram, for transfer of his appeal to some other Additional Sessions Judge and stay of proceedings, who vide his order dated 18.09.2017 declined the prayer of the petitioner for stay of proceedings before the learned Additional Sessions Judge on the ground that the petitioner could/should have made similar prayer for stay of proceedings in his aforesaid CRM-M-28221 of 2017 before this Court.

Heard.

Learned counsel for the petitioner wants to impress upon this Court that the learned Additional Sessions Judge, before whom his appeal is pending, is a dis-honest Judge as Advocate of the petitioner asked for ₹ 6 lakh towards bribe from him to further pay it to the Judge and, therefore,

learned Sessions Judge on the application of the petitioner, ought to have transferred the case to some other Court. However, perusal of affidavit

(Annexure P-14) shows that no direct conversation/nexus in between the petitioner and the Judge finds mention therein rather what had transpired in between the petitioner and his counsel has been narrated in the affidavit, which in the absence of any documentary evidence or proof cannot be believed in view of the fact that now-a-days, it has become the general tendency to level allegations against a Judge, whenever a party is not able to procure a favourable order. Perusal of order dated 29.07.2017 passed by learned Additional Sessions Judge, Gurugram, shows that the petitioner kept on moving successive applications for exemption from his personal appearance in the Court, despite the fact that his appeal had fallen in the “action plan” cases monitored periodically by this Court, against which, as discussed above, the petitioner had filed CRM-M-28221 of 2017.

Learned Sessions Judge has rightly observed that the prayer for stay of proceedings in his appeal before the learned Additional Sessions Judge should/could have been made by the petitioner before this Court in the aforesaid CRM-M-28221 of 2017, which admittedly, was not made. It seems that the petitioner with his deliberate and mala fide intentions wants to delay the decision in his first appeal by levelling false allegations against the Judge without any basis, for which this Court feels that he is also liable to be prosecuted under the Contempt of Courts Act. However, without taking any action under the Contempt of Courts Act against the petitioner, this petition is simply dismissed being devoid of any merit.

**December 04, 2017**  
R.S.

**(RAMENDRA JAIN)**  
**JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No