

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

Date of Decision: 14.09.2017

1. CRM-M No.7996 of 2017(O&M)

Tarun KumarPetitioner

Versus

State of Punjab ... Respondent

2. CRM-M No.8305 of 2017

Tarun KumarPetitioner

Versus

State of Punjab and another ... Respondents

CORAM:-HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:Mr. H.P.S. Ghuman, Advocate
for the petitioner.

Mr. Charanpreet Singh, AAG, Punjab.

Complainant Jogindro in person.

RAJ MOHAN SINGH, J.

[1]. Vide this common order, CRM-M No.7996 of 2017 titled Tarun Kumar Vs. State of Punjab and CRM-M No.8305 of 2017 titled Tarun Vs. State of Punjab and another are being disposed of.

[2]. CRM-M No.7996 of 2017 is for grant of anticipatory bail in case bearing FIR No.0023 dated 26.01.2017 registered under Sections 406, 420 IPC at Police Station City Kharar, SAS Nagar Mohali.

[3]. CRM-M No.8305 of 2017 is a petition under Section 482 of Cr.PC for quashing the aforesaid FIR along with subsequent proceedings arising therefrom.

[4]. The aforesaid FIR was registered against the petitioner on the statement of complainant/Jogindro who was ordered to be impleaded as respondent No.2 vide order dated 10.03.2017 passed by this Court.

[5]. Evidently, as per allegations in the FIR, an amount of Rs.26,80,000/- was received by the petitioner from the complainant in cash as well as through the process of bank. Complainant alleged that she has been cheated by the petitioner.

[6]. On 10.03.2017, interim stay of arrest of the petitioner was granted till 17.03.2017 on the basis of readiness shown by the petitioner that he would settle the dispute with the complainant by making payment within reasonable time. Thereafter, the case was adjourned to 21.03.2017 and the petitioner was directed to remain present in the Court vide order dated 17.03.2017. On 21.03.2017, an affidavit of the petitioner dated 21.03.2017 was taken on record. A post dated cheque bearing No.652128 in a sum of Rs.1,40,000/- was handed over to the complainant by learned counsel for the petitioner with a request that the cheque be presented for encashment only after

05.04.2017. The case was adjourned to 07.04.2017 with interim direction to continue. On 07.04.2017, the case was further adjourned to 29.05.2017 by order. The case was ultimately taken up on 30.05.2017. Complainant submitted that the cheque No.652128 in the sum of Rs.1,40,000/- was dishonoured, but she has received the said payment through demand draft No.306918 in the Court of Judicial Magistrate, 1st Class, Kharar. An amount of Rs.22,40,000/- was claimed to be due towards the accused/petitioner. Learned counsel for the petitioner undertook to pay the said remaining amount in three installments. First installment of Rs.8,00,000/- was to be paid to the complainant on 10.07.2017. The case was adjourned to 02.08.2017 and interim order was allowed to continue. On 02.08.2017, on the request of learned counsel for the petitioner the case was adjourned to 08.08.2017.

[7]. On 08.08.2017, following order was passed:-

“Petitioner is an accused in criminal case registered under Sections 406, 420 IPC. Vide order dated 10.3.2017, arrest of the petitioner was stayed on the basis of statement made by learned counsel for the petitioner that the petitioner wanted to settle the dispute by making payment within reasonable time. Thereafter, a post dated cheque in a sum of Rs.1,40,000/- was handed over to the complainant and the same was so recorded in the order dated 21.3.2017 passed by this

Court . Though the said cheque was once dishonoured, but the payment was received by the complainant later on. On 30.5.2017, petitioner undertook to pay the remaining amount of Rs.22,40,000/- in three instalments, therefore, he was ordered to pay the first instalment of Rs.8 lacs to the complainant on 10.7.2017. Interim order was made to continue. However, the order dated 30.5.2017 has not been complied with so far.

Today, learned counsel for the petitioner has brought a post dated cheque bearing No. 829813 in a sum of Rs.2,00,000/- and a demand draft bearing No. 320096 in a sum of Rs.1,00,000/- . The same have been handed over to the complainant in the Court and the photocopies thereof have been retained on record.

Learned counsel for the petitioner prays for an adjournment for making the payment of entire balance amount on 11.9.2017. Though there is no valid ground for giving such an indulgence, but keeping in view the fact that post dated cheque as well as demand draft have been tendered in the Court today, I deem it appropriate to extend the time for making the payment of entire amount upto 11.9.2017. If the amount is not paid up to 11.9.2017, no further indulgence shall be granted in any eventuality. It is also made clear that in the event of dishonouring of the cheque in question, the same shall be viewed very seriously. The complainant shall present the cheque for encashment only after 11.9.2017.

List again on 14.9.2017.

Interim order to continue.”

[8]. Before passing of the order dated 08.08.2017, CRM No.23849 of 2017 in CRM-M No.7996 of 2017 was filed by the petitioner.

[9]. Today, the complainant submitted that the demand draft in a sum of Rs.1,00,000/- has been encashed, but the cheque bearing No.829813 in the sum of Rs.2,00,000/- was not entertained by the bank due to insufficiency of funds in the account of the petitioner and the same was summarily returned to the complainant. Learned counsel for the petitioner also submitted that the entire balance amount as agreed by the petitioner has not been paid to the complainant by the date i.e. 11.09.2017.

[10]. In the earlier order dated 08.08.2017, it was made clear that if the amount is not paid upto 11.09.2017, no further indulgence shall be granted to the petitioner in any eventuality. It was also made clear that in the event of dishonouring of the cheque, the same shall be viewed very seriously. The complainant was to present the cheque for encashment only after 11.09.2017.

[11]. Evidently, the petitioner has played hide and seek with the Court from the very inception and has utilized the process of the Court at his whims and fancies. Having admitted his liability to pay the dues of the complainant, the petitioner projected a

false promise of settling the dispute with the complainant by making payment within reasonable time. On this assurance, the petitioner was successful in obtaining the interim relief from this Court on 10.03.2017. Thereafter, the petitioner undertook to pay the remaining amount in three installments as per order dated 30.05.2017 and the said promise was also not fulfilled which ultimately led this Court to pass the order dated 08.08.2017, wherein the petitioner again prayed for an adjournment for making payment of entire balance amount on 11.09.2017. Having not done so, the petitioner has willfully, intentionally and dishonestly flouted the orders of the Court.

[12]. Today, learned counsel for the petitioner again submitted that the case may be adjourned for a shorter period even after vacating the interim protection. In my considered opinion, there is no justification for adjourning the case at the whims of the petitioner who has intentionally flouted the orders with all impunity. Petitioner cannot be allowed to misuse the process of the Court to his advantage.

[13]. In view of facts and circumstances of the case, I deem it appropriate to dismiss the petition i.e. CRM-M No.7996 of 2017 with an exemplary cost of Rs.2,00,000/- to be added in the entitlement of the complainant towards her unnecessary harassment and victimization. Tehsildar Kharar District SAS

Nagar, Mohali is directed to prepare a list of immovable and movable properties of the petitioner and submit the inventory of said properties to the concerned Chief Judicial Magistrate. Till such time, Tehsildar shall ensure that the petitioner may not dispose of said properties.

[14]. Since CRM-M No.7996 of 2017 is dismissed, therefore, there is no scope for interference in CRM-M No.8305 of 2017 and the same is also dismissed.

[15]. Since the petitioner has already admitted his liability to pay the dues of complainant, therefore, the Chief Judicial Magistrate shall ensure the recovery of the aforesaid amount from the assets of the petitioner/accused and disburse the same to the complainant in accordance with law. The amount of cost of Rs.2,00,000/- shall be added to the entitlement of the complainant and be paid to her in addition to her original claim.

14.09.2017

prince

Whether Reasoned/Speaking

Whether Reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No