

\$~47

\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CRL.M.C.3446/2017**

**ASHWANI GAUR**

..... Petitioner

Through: Mr.Vinod K.Singh and Mr.Raghunath  
Menon, Advs.

versus

**DR.PRABODH CHAND THAKUR**

..... Respondent

Through: None.

**CORAM:**

**HON'BLE MR. JUSTICE ASHUTOSH KUMAR**

**ORDER**

%

**29.08.2017**

**Crl.M.A.14058/2017**

Exemption allowed subject to all just exceptions.

Application stands disposed of.

**CRL.M.C.3446/2017 & Crl.M.A.14057/2017**

This case has come on transfer from the Court of Hon'ble Mr. Justice A.K. Pathak as he is on leave today.

By the present petition, the petitioner has sought quashing of the complaint case No.2684/2015 (New No.629657/2016) pending before the Court of learned Metropolitan Magistrate, South East, Saket, New Delhi.

There is an alternate prayer for quashing of the orders dated 21.04.2017 and 26.07.2017 whereby non bailable warrants of arrest has been issued against the petitioner and processes have been initiated under Section 82 of the Code of Criminal Procedure.

Learned counsel for the petitioner, after some arguments, limits his prayer to the quashing of the orders dated 21.04.2017 and 26.07.2017.

A complaint was lodged under Section 138 of the Negotiable Instruments Act by the respondent. The cheque in question is of the amount of Rs.20 lakhs. It has been submitted that summons were issued to the petitioner on 12.01.2016.

On 01.09.2016 the summons were reported to be unserved. However, instead of issuing fresh notice, bailable warrant of arrest was issued against the petitioner.

On 21.04.2017 thereafter, as stated earlier, again a non bailable warrant of arrest was issued. This was despite the fact that a report was received by the Court that the bailable warrant of arrest was returned unexecuted as the petitioner was not residing at the address provided in the complaint or given in the warrant of arrest. Later by order dated 26.07.2017, process has been issued under Section 82 of the Code of Criminal Procedure.

Learned counsel for the petitioner submits that in the complaint as well as in the notice, two addresses have been provided viz. C-56, Sector 26, Noida, U.P and B-59, Sector 30, Noida, U.P. The petitioner actually does not reside at either of these two addresses; rather he resides at 1/4684, Balbir Nagar Vistar, Delhi. It has been submitted that it is because of the wrong address that the notice could not be served to him and bailable and non bailable warrants of arrest also could not be executed. However, today the petitioner urges that he is ready to participate in the trial.

Considering the aforesaid contention of the petitioner, this Court feels inclined to and sets aside the orders passed by the Trial Court whereby

bailable and non bailable warrants of arrest have been issued against him. The order initiating proceedings under Section 82 of the Code of Criminal Procedure is also set aside. The petitioner is permitted to appear before the Trial Court on 13.10.2017, which is the next date fixed in the matter.

The present petition is allowed to the extent indicated above.

Dasti.

**ASHUTOSH KUMAR, J**

**AUGUST 29, 2017**

k