

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CR-4090-2017 (O&M)

Date of decision: 23.04.2018

Satbir Singh

..... Petitioner

Versus

Shriram Transport Finance Co. Ltd. and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. JS Yadav, Advocate for the petitioner.

Mr. Gaurav Sharma, Advocate for respondent No. 1.

RAMENDRA JAIN, J. (ORAL)

1. Through this revision under Article 227 of the Constitution of India, challenge has been laid to the order dated 02.05.2017 (Annexure P-6) of the Additional District Judge, Rewari, whereby conditional warrants of arrest of the petitioner have been issued.

2. In nutshell, the petitioner obtained a loan of ₹ 3,25,000/- from respondent No. 1-Finance Company for purchase of a vehicle by executing an agreement dated 10.02.2011 Ex. CW1/2. According to the said agreement, a sum of ₹ 4,39,292/- including interest was payable by the petitioner in 37 monthly installments, but he did not adhere to the financial discipline agreed by him with respondent No. 1. Therefore, as per the terms and conditions of the loan agreement, respondent No. 1 approached the Arbitrator who after issuance of due registered notice to the petitioner, passed the impugned Award dated 05.03.2014 (Annexure P-1) against the

petitioner holding him liable to make payment of ₹4,86,422/- w.e.f.

27.08.2013 along with interest @ 18% per annum from 28.08.2013 till realization.

3. Thereafter, when the petitioner did not pay even a single penny, respondent No. 1 preferred an Execution Petition before the District Judge, Rewari, which was hotly contested by the petitioner by filing objections. His objections were dismissed vide order dated 19.04.2017 (Annexure P-5). Thereafter, vide order dated 02.05.2017 (Annexure P-6) upon the application of respondent No. 1, conditional warrants of arrest were issued against the petitioner and his guarantor-Satish Kumar (respondent No. 2 herein) that in case, the payment of awarded amount is made by judgment-debtor(s), they be released and deposited amount be remitted to his Court for onward payment of the same to respondent No. 1-decree-holder.

4. Learned counsel for the petitioner relying upon an order of this Court dated 12.02.2016 (Annexure P-7) passed in **CR-1105-2016, Rajesh Kumar Vs. M/s Tata Motors Finance Ltd. and another**, contends that the impugned order is illegal and harsh, because the order of imprisonment of a judgment-debtor should not be passed, without affording an opportunity to him to show cause as to why he should not be committed to prison.

5. On the other hand, learned counsel for respondent No. 1, vehemently opposed the submissions made by learned counsel for the petitioner.

6. Having given considerable thoughts to the submissions made by learned counsel for both the parties, this Court finds, the instant revision being completely devoid of any merit, inasmuch, as the petitioner had obtained a loan of ₹ 3,25,000/- on 10.02.2011 and is a defaulter since 11.07.2012. He did not pay even a single penny to respondent No. 1,

thereafter. Even he did not choose to respond to the notice of Arbitrator and allowed him to pass Award (Annexure P-1) against him.

7. The things did not rest here, respondent No. 1 was forced to file execution petition which too was hotly contested by the petitioner by filing various objections which were dismissed vide order Annexure P-5. Since, then more than one year has elapsed, but still the petitioner has not paid even a single penny which shows his dishonest and *mala fide* intention to usurp the loan amount without any excuse.

8. More so, on the previous date i.e. 18.04.2018, learned counsel for the petitioner sought two days' time to settle the matter in a sum of ₹ 5,75,000/- and the case was adjourned for today to enable the petitioner to settle the matter with respondent No. 1 in the aforesaid amount. Today on the asking of Court, learned counsel for the petitioner has stated that the petitioner is not ready to pay the said amount. Contrary to it, learned counsel for respondent No. 1 submitted that a sum of ₹ 10,64,596/- is due against the petitioner as on 09.05.2017. Thereafter, the interest has accrued on the said amount.

9. The above discussion and conduct of the petitioner shows that by not adhering the financial discipline agreed by him with respondent No. 1, he is delaying the proceedings in the execution petition filed against him by respondent No. 1 either on one pretext or the other. Such a person like the petitioner is not entitled to any sort of relief from the Court.

10. The facts and circumstances of the case and the judgment Annexure P-7 are not identical to the facts of present case, inasmuch, as in the present case, conditional warrants have been issued with the observation that in case, the petitioner and respondent No. 2 make the payment of the

awarded amount.

11. In view of discussion made above, the instant revision being complete devoid of any merit, is dismissed.

April 23, 2018
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(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No