

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

**Criminal Misc. No.M-28016 of 2018
Date of Decision: 02.08.2018**

M/s. Best Food Ltd. and others

...Petitioner(s)

Versus

State of Haryana & another

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Mr. Maneesh Kumar Bali, Advocate
for the petitioners.

Mr.Ashok S. Chaudhary, Addl. A.G. Haryana.

Mr.Rahul Jaswal, Advocate for respondent No.2.

HARI PAL VERMA, J. (Oral)

Petitioners have filed the present petition under Section 482 Cr.P.C for quashing of the impugned order dated 07.06.2018 (Annexure P-6) passed by the learned Judicial Magistrate Ist Class, Panipat, whereby, the petitioners No. 2 to 6, who are directors/partners of M/s Best Food Ltd. Karnal, were declared as proclaimed persons.

Learned Magistrate has relied upon the statement of ASI Jeetender regarding publication of the proclamation on 16.03.2018.

Learned counsel for the petitioners outrightly submits that the petitioners have no intention not to appear before the trial Court, as in a similar case filed under Section 138 of the Negotiable Instruments Act, the petitioners have appeared before the trial Court on 06.06.2018, whereas the present order has been passed on 07.06.2018. The petitioners were never served in the case and they have no reason for not appearing before

the trial Court. Learned counsel further states that the petitioners are ready to settle the dispute with respondent No.2/complainant. Respondent No. 2 had filed a complaint under Section 138 of the Negotiable Instruments Act, whereby, the cheque issued by the petitioners in favour of respondent No. 2/complainant was dishonoured on account of "*Insufficient Funds*". The cheque was issued by the petitioners for a sum of Rs.4 lacs in favour of respondent No.2/complainant. He has further submitted that though, the petitioners were not served in the case, but without making any comment on the service of the notices, the petitioners are ready to appear before the trial Court and join the proceedings.

In order to show his bond fide, learned counsel for the petitioners has produced a demand draft dated 05.07.2018, for an amount of Rs.2 lacs in favour of respondent No.2-complainant. The photocopy of the same has been placed on record.

Mr. Rahul Jaswal, Advocate appearing on behalf of respondent No.2 and filed Power of Attorney in Court today, which is taken on record. He, on instructions from his client-Surender, states that the complainant would be satisfied in case the petitioners pay the cheque amounting to Rs.4 lacs in the present case. He has no objection, if the petitioners appear before the trial court and make the balance payment there.

In view of the conceded position that the petitioners are ready to appear before the trial Court and join the proceedings as well as the statement of the petitioners that they are ready to pay the remaining amount of Rs.2 lacs before the trial Court, this Court finds that the

impugned order dated 07.06.2018 (Annexure P-6) passed by the learned Judicial Magistrate Ist Class, Panipat needs to be quashed.

Accordingly, in case the petitioners appear before the trial Court within 15 days from today and furnish a bank draft of balance amount of Rs.2 lacs in favour of respondent No. 2/complainant, the trial Court shall admit the petitioners on bail, subject to their furnishing adequate bail and surety bonds to its satisfaction.

With these observations, present petition is disposed of and impugned order dated 07.06.2018 (Annexure P-6) passed by the learned Judicial Magistrate Ist Class, Panipat, is set aside.

02.08.2018
Anjal

(HARI PAL VERMA)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No`