

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

**CRM NO. M-47016 OF 2018
DATE OF DECISION : 25.10.2018**

Gurmit Singh

...Petitioner

versus

State of Punjab and another

...Respondents

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. Veneet Sharma, Advocate,
for the petitioner.

RAJBIR SEHRAWAT, J. (ORAL)

Prayer in the present petition is for setting-aside the order dated 05.02.2018 (Annexure P-3) passed by Judicial Magistrate Ist Class, Amritsar in a complaint case No.319/2017 dated 17.01.2017 titled as, "Surinder Kaur v. Gurmit Singh" under Section 138 of the Negotiable Instruments Act.

Learned counsel for the petitioner contends that the petitioner had been appearing before the trial Court and facing the proceedings. However, since the petitioner and the complainant, both are residents of same area, with the intervention of respectables; the matter was compromised between the parties. The complainant had agreed to withdraw the complaint. As a result, under a mistaken impression, the

petitioner did not appear before the trial Court presuming that the complainant would withdraw the complaint itself. However, the complainant had not withdrawn the complaint. As a result thereof, the petitioner had been declared as proclaimed person vide the impugned order. It is contended by learned counsel that the petitioner has no intention to flee from the course of justice. In any case, since the petitioner has now come to know of the order declaring him as the proclaimed person, therefore, he intends to appear before the trial Court. The only prayer is that the petitioner be protected from the arrest.

Notice of motion.

At the asking of Court, Mr. K. S. Aulakh, Deputy Advocate General, Punjab, accepts notice on behalf of the respondent-State and submits that he has no objection if the petitioner appears before the trial Court. Copy of the paper-book be supplied to him during the course of day.

The objective of the coercive mechanism prescribed under the Code of Criminal Procedure is to ensure that the accused remains present before the Court to receive the orders and punishments, as are passed qua the accused. If the accused shows his sincere intention and desire to appear before the Court, then it would not be unjustified to protect him from being arrested.

In view of the above, the present petition is allowed, subject to the petitioner appearing before the trial Court on or

before 13.11.2018. It is further directed that in case the petitioner so appears before the trial Court, then the petitioner shall be released on bail on his furnishing bail bond/surety to the satisfaction of the trial Court.

(RAJBIR SEHRAWAT)
JUDGE

OCTOBER 25, 2018
shalini

Whether speaking/reasoned : YES/NO
Whether reportable : YES/NO