

CRM-M-10414-2019 (O&M)
Date of decision:08.03.2019

Bulusu Subrhmmanaya Chandra Sekhar and others ...Petitioners

Versus

Indiabulls Housing Finance Ltd. ...Respondent

CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Mr. Amandeep Agnihotri, Advocate for the petitioners.

RAJBIR SEHRAWAT, J. (ORAL)

Prayer in this petition is for quashing of the impugned order dated 11.02.2019 as well as the order dated 02.08.2018, passed by the Judicial Magistrate 1st Class, Gurugram, in case CC No.7442 dated 01.06.2017 under Sections 138, 141, 142 of Negotiable Instruments Act.

Learned counsel for the petitioners submits that in this very case, the petitioners were appearing before the trial Court. However, on 02.08.2018, the petitioners could not appear before the trial Court. Instead, an application for exemption from personal appearance was filed. But the trial Court dismissed the same and issued warrant of arrest against the petitioners. It is further contended by the learned counsel for the petitioners that the petitioners have no intention to flee from the course of justice. They would regularly appear before the trial Court. The prayer made is only that the petitioners be protected from the arrest.

Heard.

In view of the orders being passed herein, it is not necessary to issue notice of motion to the respondent. The petition can be disposed of without any notice.

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 petitioners appearing before the trial Court on or before 18.04.2019. It is further directed that in case, the petitioners so appear before the trial Court then the petitioners shall be released on bail on their furnishing bail bond/surety to the satisfaction of the trial Court.

(RAJBIR SEHRAWAT)
JUDGE

08.03.2019

Hemlata

Whether speaking/reasoned

Yes / No

Whether reportable

Yes / No