

**S.No.123**

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

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**CRM-M-15295 of 2019 (O&M)**

**Date of Decision:04.04.2019**

**Bulusu Subrahmanaya Chandra Sekhar and others .....Petitioners**

**Vs.**

**Indiabulls Housing Finance Ltd.**

**.....Respondent**

**CORAM:- HON'BLE MR. JUSTICE RAJBIR SEHRAWAT**

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

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**Rajbir Sehrawat, J.(Oral)**

This is a petition seeking quashing of the impugned orders dated 02.03.2019 and 02.08.2018 passed by Judicial Magistrate Ist Class, Gurugram in CC No.20437 of 2017.

Learned counsel for the petitioners submits that on receipt of the summoning order, the petitioners had appeared before the trial Court. However, on 02.08.2018, counsel for the petitioners had moved the application for their exemption from their appearance before the trial Court. But, that application was dismissed and the bail granted to the petitioners was cancelled. In the meantime, the petitioners had also filed a revision petition; before the Sessions Court; challenging the summoning order. That revision is still pending. However, in the meantime, the trial Court has declared the petitioners as proclaimed persons vide order dated 02.03.2019. It is submitted by the counsel that this order has been passed without proper compliance of the provision of Section 82 Cr.P.C because the

petitioners were never served with any notice, summons or warrants after 02.08.2018. Otherwise also, the petitioners were under mistaken impression that since their revision petition is pending before the Sessions Court and the file of the trial Court had been called by the revisional Court, therefore, the petitioners would not be required to appear before the trial Court. However, since the petitioners have now come to know of the fact that they have already been declared as proclaimed persons, therefore, the petitioners intend to appear before the trial Court and to face further proceedings, in accordance with law. It is also submitted that the petitioners have no intention to flee from course of justice. The only prayer is that the petitioners be protected against their arrest.

In view of the nature of the order which this Court intends to pass, the Court does not find it necessary to issue any notice to the opposite side. Hence, the present petition is being disposed of without issuance of the notice to the respondent.

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 and impugned orders are quashed subject to the petitioners appearing before the trial Court on or before 29.05.2019. It is further directed that in case the

petitioners so appear before the trial Court on or before 29.05.2019 then they shall be released on bail on their furnishing bail bonds/ sureties to the satisfaction of the trial Court/ Duty Magistrate.

April 04, 2019

( RAJBIR SEHRAWAT )

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JUDGE

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|---------------------------|--------|
| Whether Speaking/reasoned | Yes/No |
| Whether Reportable        | Yes/No |