

Sr. No.119

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

**CRM-M-50488-2018
Date of decision:24.01.2019**

Yogita Kaushik

.....Petitioner

versus

State of Haryana and another

.....Respondents

Coram: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Mr. Satnam Singh, Advocate for
Mr. Abhimanyu Singh, Advocate
for the petitioner.

Rajbir Sehrawat, J(Oral)

Present petition has been filed seeking quashing of the impugned order dated 17.09.2018(Annexure P-3) passed by the learned Civil Judge(Sr.Division), Bhiwani.

There is no dispute that the Complaint was filed against the present petitioner under Section 138 of the Negotiable Instruments Act. Ultimately, the matter had gone to Daily Lok Adalat, Bhiwani. Before the Daily Lok Adalat, Bhiwani, the parties had compromised the matter and as per the compromise arrived at between the parties, it was ordered that the petitioner would be bound to make payment of Rs.3 lakhs in two installments of Rs.1.5 lakh each. The first installment was to be paid to the Complainant in last week of March, 2017 and second installment was to be paid in the last week of July, 2017. It was further ordered that if the accused /present petitioner fails to pay the agreed amount in the prescribed time then the award would be executable as a Civil Court decree and the Complainant would be at liberty to get the same executed through the Civil Court. On the

basis of this compromise, the present petitioner had earned acquittal of the charge levelled against her under Section 138 of the Negotiable Instruments Act.

As it turns out the petitioner did not make any payment pursuant to the award. Accordingly, the Complainant filed execution before the Civil Judge(Senior Judge) Bhiwani. In the execution proceedings, conditional warrant was issued against the present petitioner. However, the same could not be executed and hence vide Order dated 17.09.2018, fresh conditional warrant was ordered to be issued. It is this Order which is under challenge in the present petition.

Learned counsel for the petitioner submits that straightway conditional warrants have been issued against the petitioner for bringing the whole amount, without granting her the opportunity of filing the objections. On the previous date, learned counsel for the petitioner had sought time to fortify his contention with some judgment. However, he has not been able to support his contention through any precedent from the Court.

A perusal of the paper book shows that the award being executed by the Civil Court is an award passed by the Daily Lok Adalat, Bhiwani. It was passed on the basis of the agreed terms. The petitioner had even obtained acquittal of criminal charge on the basis of this compromise. However, the petitioner has not abide by those terms of compromise. This has led to filing of the execution petition.

In view of these facts, it does not lie in the mouth of the petitioner to claim that she can not be asked to pay the entire amount in one go or that she has been denied opportunity to file the objections. Since the award is based on a compromise, on the basis of which the petitioner has

already availed benefit, therefore, the objection qua liability under that award would otherwise also, not be maintainable.

Finding no merit in the present petition, the same is dismissed.

24th January, 2019
Shivani Kaushik

[RAJBIR SEHRAWAT]
JUDGE

Whether speaking/reasoned *Yes/No*

Whether Reportable *Yes/No*