

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.4132 of 2019(O&M)
Date of Decision: 03.10.2019

Chetan Mehra and anotherPetitioners

Versus

M/s V. Cinemas and EntertainmentRespondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present:Ms. Ritam Aggarwal, Advocate and
Ms. Neel Kamal, Advocate
for the petitioners.

Mr. Amitabh Tewari, Advocate
for the respondent.

RAJ MOHAN SINGH, J.

CM No.14871-CII of 2019

For the reasons mentioned in the application, the same
is allowed. Accompanying document is taken on record.

Main case

[1]. Petitioners have laid challenge to the order dated 15.03.2019 passed by Additional District and Sessions Judge, Gurugram and subsequent proceedings undertaken in pursuance thereof, including the orders dated 20.04.2019, 27.05.2019 and 02.07.2019, vide which the appeal filed by the petitioners was admitted and at the same time, in view of amended Section 148 of the Negotiable Instruments Act, the petitioners have been directed to deposit 20% of the compensation awarded in the shape of FDR in the name of the Court within 60 days from the date of said order.

[2]. Perusal of the record would show that in a complaint under Section 138 read with Section 141 of the Negotiable Instruments Act as amended upto date, the petitioners were convicted for the offence under Section 138 read with Section 141 of the Negotiable Instruments Act vide judgment dated 14.02.2019 and were sentenced to undergo simple imprisonment for a period of one year vide order dated 16.02.2019 passed by the Judicial Magistrate Ist Class, Gurugram. The convicts were directed to pay compensation of Rs.2,74,50,000/- to the complainant, who can recover the entire amount either from the accused or from their personal properties in accordance with law after expiry of the period

allowed for filing the appeal/revision (if any) or as per the direction issued by the Appellate/Revisional Court (if any). The sentences were ordered to run concurrently and the period of detention already undergone by the accused/convicts was ordered to be set off against the substantive sentence awarded by the trial Court.

[3]. Against the aforesaid conviction, an appeal was preferred by the petitioners. Additional District and Sessions Judge, Gurugram in the application for suspension of sentence, suspended the sentence till the decision of the appeal. Appellant Chetan Mehra partner of accused No.1 as well as for himself was granted interim bail on his furnishing personal bond in the sum of Rs.10,00,000/- with one surety in the like amount. As per amended Act, accused/petitioner No.1 was directed to deposit 20% of the compensation awarded in the shape of FDR in the name of Court within 60 days from the date of said order. Notice of the appeal was issued to the State/respondent vide order dated 15.03.2019.

[4]. Against the aforesaid order dated 15.03.2019 passed by Additional District and Sessions Judge, Gurugram, the petitioners filed CRM-M No.22647 of 2019. Co-ordinate Bench while relying upon judgment dated 04.04.2019 rendered in CRR No.9872 of 2018 held that the procedure for recovery of fine or

compensation from the petitioners in the pending appeal already existed in Cr.P.C even before amendment contained in Section 148 of the Negotiable Instruments Act, therefore, no new mechanism for recovery by way of coercive steps has been created vide the amended provision. It was also observed that the provision is beneficial to the convict as it reduces liability of the petitioners qua immediate deposit of fine or compensation, if not otherwise stayed by the Appellate Court. The petition was dismissed and order dated 15.03.2019 passed by Additional District and Sessions Judge, Gurugram was upheld.

[5]. It appears from the record that the same order has been assailed herein. Learned counsel for the petitioners have placed on record order dated 11.07.2019 by way of CM No.14871-CII of 2019.

[6]. Perusal of the aforesaid order would show that non-bailable warrants have been issued against the petitioner(s) by incorporating some incriminating facts. The case was further adjourned to 29.07.2019 by the Appellate Court for appearance of the petitioner(s)/appellant(s) therein. Thereafter, the case was again adjourned to 25.10.2019 with non-bailable warrants of the petitioner(s).

[7]. Perusal of the record would also show that after passing of the aforesaid order dated 11.07.2019 by the

Additional District and Sessions Judge, Gurugram, CRM-M No.30491 of 2019 titled Chetan Mehra and another Vs. M/s V. Cinemas and Entertainment and another was filed for grant of anticipatory bail. The aforesaid petition came to be listed before the same Co-ordinate Bench who had passed the order dated 20.05.2019, dismissing CRM-M No.22647 of 2019. CRM-M No.30491 of 2019 was ordered to be dismissed as withdrawn vide order dated 04.09.2019.

[8]. Order dated 15.03.2019 passed by the Additional District and Sessions Judge, Gurugram, is being assailed in the present revision petition. The same order was unsuccessfully assailed in CRM-M No.22647 of 2019 decided on 20.05.2019.

[9]. Learned counsel for the petitioners placed reliance upon **CRWP No.258 of 2019** and others connected cases titled **Ajay Vinodchandra Shah Vs. The State of Maharashtra and another** decided on 14.03.2019 by the Bombay High Court and contended that right to bail should be unconditional and the provisions in terms of Sections 143-A and 148 of the Negotiable Instruments Act cannot disentitle the petitioners from seeking bail as the provisions cannot be applied with retrospective effect.

[10]. In the instant case, judgment came to be passed by the trial Court after the amendment. No interim compensation has

been awarded under Section 143-A of the Negotiable Instruments Act. The aforesaid judgment has been rendered by the Bombay High Court while exercising jurisdiction under criminal law. Petitioners have lost the remedy in CRM-M No.22647 of 2019 decided on 20.05.2019. The prayer for anticipatory bail has also been declined in CRM-M No.30491 of 2019 decided on 04.09.2019. Petitioners have not assailed the order dated 11.07.2019 passed by the Additional District and Sessions Judge, Gurugram in any criminal miscellaneous till date. The ratio of **Ajay Vinodchandra Shah's case (supra)** is not attracted in the present revision petition, particularly when the order dated 15.03.2019 passed by the Additional District and Sessions Judge, Gurugram has already been upheld in CRM-M No.22647 of 2019 decided on 20.05.2019.

[11]. Vide order dated 08.07.2019, notice of motion was issued on the ground that the petitioners are not against the order for depositing 20% of the compensation, but they made a prayer that they be permitted to deposit the same in installment, since the offence is compoundable in nature. In pursuance of said order, learned counsel appearing on behalf of the respondent stated that the respondent is not ready to accept any such installment. The requisite period under Section 148-A of the Negotiable Instruments Act has already expired.

[12]. For the reasons recorded hereinabove, I do not see any justification to interfere in this revision petition. This revision petition is found to be totally devoid of merits and is accordingly dismissed. All pending applications are accordingly disposed of.

03.10.2019
Prince

(RAJ MOHAN SINGH)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No