

S.No.121

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

CRM-M-48257 of 2019 (O&M)

Date of Decision:14.11.2019

Jaswinder Singh

.....Petitioner

Vs.

Mahindra and Mahindra Financial Services Ltd.

.....Respondent

CORAM:- HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present:- Mr. Surinder Garg, Advocate for the petitioner.

Rajbir Sehrawat, J.(Oral)

This is a petition for quashing the complaint bearing No.COMA/1509 of 2014 dated 25.08.2014 under Section 138/142 of Negotiable Instruments Act, summoning order dated 04.09.2014 and the order dated 13.06.2016 passed by Id. JMIC, Bathinda, vide which the petitioner has been declared as Proclaimed Person in the above said complaint and the subsequent proceedings thereto.

At the outset, learned counsel for the petitioner submits that he has the instructions to withdraw the present petition qua challenge to the complaint and the summoning order as such; and to press the present petition only qua challenge to the order declaring the petitioner as Proclaimed Person.

Accordingly, the petition is dismissed as withdrawn qua challenge to the complaint and the summoning order and the petition is entertained only qua challenge to the order declaring the petitioner as a Proclaimed Person.

It is contended by counsel for the petitioner that the amount involved in the present complaint was also alleged to be involved in another

complaint. The address given by the complainant in both the complaints was the same. In the other complaint, the petitioner was appearing before the Court and has since been convicted as well. Therefore, there was no reason or occasion for the petitioner not to appear before the trial Court in the present complaint. He could not appear before the trial Court only because he was not ever served with any notice, summons or warrants from any Court. The petitioner never had any intention to flee from course of justice. Now since the petitioner has come to know of the pendency of proceedings against him, therefore, the petitioner intends to appear before the trial Court to face further proceedings in accordance with law. The only prayer is that the petitioner be protected against his 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 subject to the petitioner appearing before the trial Court on or before 29.11.2019. It is further directed that in case the petitioner so appears before the trial Court

on or before 29.11.2019 then he shall be released on bail on his furnishing
bail bonds/ sureties to the satisfaction of the trial Court/ Duty Magistrate.

November 14, 2019
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(RAJBIR SEHRAWAT)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No