

CRM-M-49747-2019

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

CRM-M-49747-2019

Date of Decision:22.11.2019

Madhukar Tusli and another

... Petitioners

Versus

State of U.T. Chandigarh and another

... Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Ms. Jigyasa Tanwar, Advocate,
for the petitioners.

HARNARESH SINGH GILL, J. (Oral)

The present petition has been filed under Section 482 Cr.P.C. for setting aside the order dated 05.09.2019 (Annexure P-1) passed by the learned Judicial Magistrate Ist Class, Chandigarh, vide which the petitioners have been declared proclaimed persons in complaint No.2389 dated 14.02.2018, titled as 'Ashish Arora Vs. Puma Realtors Pvt. Ltd. and others', filed by respondent No.2 under Section 138 of the Negotiable Instruments Act, 1881 and Section 420 of the Indian Penal Code.

Learned counsel for the petitioners submits that the due amount has been paid to respondent No.2-Ashish Arora and now the matter has been resolved amicably as per the affidavit dated 14.11.2019 (Annexure P-6). It has also been stated that an application under Section 7 of the Insolvency and Bankruptcy Code, 2016, had been admitted by the Hon'ble

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had not been served, but the matter was pending before the Consumer Forum where the amount was paid by respondent No.2 . She also submits that non-appearance of the petitioners before the trial Court was not intentional.

Notice of motion to respondent No.2 only.

At this stage, Mr. Ashish Arora, Advocate, has put in appearance on behalf of respondent No.2 and filed his power of attorney. He does not dispute the factum of compromise between the parties. He submits that due amount has been received by respondent No.2.

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.

As the compromise has been effected between the parties and due amount has been paid and above all, the learned counsel for the petitioners stated that non-appearance before the learned trial Court was not intentional, the order dated 05.09.2019 (Annexure P-1) is set aside.

Disposed of.

22.11.2019

parveen kumar

(HARNARESH SINGH GILL)
JUDGE

Note:	Whether speaking/reasoned	:	Yes/No
	Whether reportable	:	Yes/No