

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Revision No.4166 of 2019 (O & M)
Date of Decision: 14.01.2020

Ramandeep Kaur and another

... Petitioners

Vs.

M/s Phagwara Home Appliances

... Respondent

CORAM : HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present : Mr. K.S.Brar, Advocate
for the petitioners.

Mr. Anish Setia, Advocate
for the respondent

RAJIV NARAIN RAINA, J (ORAL):

1. The prayer in this petition filed under Article 227 of the Constitution of India is for setting aside the order dated 1.7.2019 passed by the learned Additional Civil Judge (Senior Division), Phagwara, vide which the conditional warrants of arrest of petitioner No.1-Ramandeep Kaur-Judgment debtor, has been issued.

2. The impugned order dated 1.7.2019 deserves to be set aside on the short ground that the learned Additional Civil Judge, Phagwara had issued a conditional warrants of arrest against a woman, namely, Ramandeep Kaur-Judgment Debtor. Such warrants are prohibited by the civil law to be issued to a woman and she cannot be arrested and produced in Court as a mode of recovery to satisfy a money decree. Section 56 of the Code of Civil Procedure, 1908 clearly bars arrest while granting a statutory embargo. Hence, a notice could not be issued in *terrorem* to frighten the

judgment debtor, who is a woman, to squeeze out money from her in execution of a civil decree.

4. In view of the above, the impugned order is not sustainable in law. Accordingly, the petition is allowed. The impugned order dated 1.7.2019 is set aside. The warrants of arrest are cancelled. However, the executing Court will proceed with the case for recovery of money by adopting other lawful means and it will also take into account the report of the Executing Court placed on the file of this case under interim directions dated 3.12.2019 by this Court.

5. The husband of the JD is present in Court and has brought with him a cheque amounting to Rs.2 lakhs bearing No.212572 dated 14.01.2020 signed in favour of the decree holder. A photocopy of the same is taken on record with identification mark 'A'. The cheque has been handed over to Mr.Setia, Advocate for the respondent decree-holder, and has been handed over to the respondent in Court. In case the cheque bounces for any reason, the respondent has liberty to approach this Court direct through an application in this case to pass appropriate orders against both the JD and her husband, instead of leaving the parties to battle it out under Section 138 of the Negotiable Instruments Act, 1881.

6. Ordered accordingly.

(RAJIV NARAIN RAINA)
JUDGE

14.01.2020
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Whether speaking/reasoned
Whether reportable

Yes
Yes/No