IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-27600-2021
Date of decision:20.07.2021

Divya Harish Hegde

...Petitioner

Versus

M/s Intee Capital Ltd. and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Padamkant Dwivedi, Advocate for the petitioner.

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HARNARESH SINGH GILL, J. (ORAL)

Case is taken up for hearing through video conferencing.

This is a petition under Section 482 Cr.P.C. for quashing of impugned order dated 20.12.2019 (Annexure P-17) passed by Judicial Magistrate 1st Class, Gurugram, vide which the petitioner has been declared as a proclaimed person in a complaint under Section 138 of the Negotiable Instruments Act, 1881.

Learned counsel for the petitioner submits that the petitioner was residing at Nasik and after marriage, she had shifted to her matrimonial home at Mumbai. Thus the petitioner was not having knowledge about the pendency of the present complaint in question.

Learned counsel for the petitioner draws the attention of this Court towards zimini orders passed by the trial Court from time to time. It is pointed out by learned counsel for the petitioner that the non-bailable

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warrants were never served upon the petitioner and even as per the report given by the executing Constable Sunil Kumar, no information had been gathered about the accused or the moveable and immovable property of the petitioner. It is further stated that since the marriage was solemnized in 2006 and thereafter the petitioner had shifted to her matrimonial home at Mumbai, there was no occasion for the executing Constable to effect service upon the petitioner at Nasik.

Learned counsel for the petitioner further submits that the non-appearance of the petitioner was not intentional and she is ready to join the proceedings pending before the trial Court.

Notice to the State-respondent No.2 only.

On the asking of the Court, Mr. Ashok Singh Chaudhary, Addl. A.G., Haryana, accepts notice on behalf of the State.

Notice to respondent No.1-complainant is not being issued as this would further delay the trial.

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 her sincere intention and desire to appear before the Court, then it would not be unjustified to protect her from being arrested.

Without commenting on the merits of the case, this petition is disposed of with a direction to the petitioner to surrender before the trial Court within four weeks from today. On doing so, she shall be released on

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bail subject to her furnishing fresh bail bonds/surety bonds to the satisfaction of the trial Court.

(HARNARESH SINGH GILL)
JUDGE

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Whether reasoned/speaking? Yes/No
Whether reportable? Yes/No

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