IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M No. 14855 of 2022
Date of Decision: 07.04.2022

M/s. R.R. Exports-16A, Industrial Area-A, Ludhiana

..... Petitioner

Versus

Nalin Tayal and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Ms. Kriti Sharma Avasthi, Advocate
for the petitioner.

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SURESHWAR THAKUR, J. (ORAL)

1. The petitioner is an accused in a complaint titled *"Nalin Tayal and another Vs. M/s. R.R. Exports and others"*. The above complaint is subjudice, before the Court of JMIC, Ludhiana.

2. Since, the institution of above complaint in the year 2017, though the petitioner either personally or through validly engaged counsel, recorded his appearance, before the learned Magistrate concerned. However, it is stated at the Bar, by the learned counsel for the petitioner, that from 20.11.2019 upto 07.03.2022, the petitioner was not in India, rather was in Canada.

3. Believing the afore made statement at the Bar, by the learned counsel for the petitioner, thereupon, it becomes incumbent upon this Court to determine whether all processes as became drawn upon the petitioner, in the above period, were validly recoursed, or, not rather by the learned Magistrate concerned. The recourses of processes, by the learned Magistrate concerned, even if coercive in nature, would become validated only when they became personally served upon the petitioner at Canada, and through the Embassy of India, located at Canada. However, the above

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evidence is neither placed on record, nor, is reflected in the orders existing on the file of this Court.

4. Therefore, the initiation of coercive processes against the petitioner for hers recording her personal appearance before the learned Magistrate concerned, within the afore period, when remain personally unserved upon her at Canada, and, through the Embassy of India, located at Canada. Thereupon, it was inapt for the learned Magistrate concerned, to, yet re-recourse the coercive processes against the petitioner, inasmuch as, his ordering for hers recording her presence, before him, after execution upon her of non-bailable warrants, as, made returnable for 21.04.2022.

5. The effect of the afore discussion brings to the fore, the fact that the order made on 08.03.2022 (Annexure P-4 colly), directing the issuance of non-bailable warrants against the petitioner are liable to be set aside, as, without doing so, her personal liberty would become untenably jeopardized.

6. Consequently, the order dated 08.03.2022, is quashed and set aside. Non-bailable warrants, if not issued already, be not issued, and, if issued, be recalled forthwith.

April 07, 2022 **(SURESHWAR THAKUR)**
'dk kamra' **JUDGE**

Whether Speaking/reasoned	*Yes*
Whether Reportable	*Yes*

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