

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-20261-2018 (O&M)
Date of decision: 20.09.2023

M/s. Stone Export House Pvt. Ltd. and another

...Petitioners

Versus

Swami International

...Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Vishal Nehra, Advocate for the petitioners.

Mr. Anirudh Dhanda, Advocate for the respondent.

HARNARESH SINGH GILL, J. (ORAL)

1. Challenge in the present petition is to the order dated 06.02.2018 (Annexure P-5) whereby non-bailable warrants against the petitioners were issued and orders dated 14.03.2018 (Annexure P-7) and dated 18.04.2018 (Annexure P-9), vide which applications seeking exemption from personal appearance of the petitioners had been dismissed.
2. Vide order dated 11.05.2018 passed by a Coordinate Bench, notice of motion was issued to the limited prayer for clubbing of the nine cases filed under the Negotiable Instruments Act, against the petitioners.
3. On 11.02.2020, a Coordinate Bench of this Court passed the following order:

“The matter was taken up out of turn in the first half on request of Mr. M.R. Chauhan, Advocate, who had submitted that he had come all the way from Bombay and had to return, and none had

put in appearance on behalf of the respondent in spite of service. The order was reserved at that stage.

But after recess, Mr. Anirudh Dhanda, Counsel for the respondent has appeared. The record shows that Power of Attorney on behalf of the respondent, had already been filed earlier.

In such circumstances, Mr. Vishal Nehra, Advocate for Mr. M.R. Chauhan, Advocate, appears and seeks a short adjournment of proceedings.

On his request, adjourned to 27.05.2020.

To be taken up immediately after the Urgent List”.

4. On 04.04.2022, the Coordinate Bench passed the following order:

“Counsel for the petitioner made request that at this stage, the petitioners be granted some interim relief as while enlarging the petitioners on bail, the trial Court imposed condition directing the petitioners to furnish cash surety worth Rs.1 lakh each in 8 criminal complaints filed by the respondent against them under Section 138 of Negotiable Instruments Act.

Counsel for the respondent while contesting the said plea submitted that till date, the petitioners have failed to appear before the trial Court and presently, their non-bailable warrants have been issued. On this, counsel for the petitioners submitted that the petitioners are unable to appear before the trial Court due to imposition of onerous conditions by the trial Court while granting bail to the petitioners.

Admittedly, 8 criminal complaints under Section 138 of Negotiable Instruments Act filed by the respondent against the petitioners are pending in the Court of JMIC, Jalandhar. The petitioners have been summoned as accused in all the said 8 complaints. As per counsel for the petitioners, trial Court directed the petitioners to furnish cash surety in the sum of Rs.1 lakh each in the said criminal complaints.

Considering above facts and the fact that the offence

under Section 138 of Negotiable Instruments Act is bailable offence, this Court is inclined to modify the aforesaid condition imposed by the trial Court as an interim measure and the petitioners are directed to appear before the trial Court and on their appearance, they are directed to be released on bail on their furnishing cash surety worth Rs.50,000/- each.

Now be listed on 17.8.2022.”.

5. A perusal of the order dated 04.04.2022 would show that the petitioners were directed to appear before the trial Court and on their appearance, they had been directed to be released on bail on their furnishing cash surety worth Rs.50,000/- each.

6. On a specific query put to the learned counsel for the petitioners as to whether the petitioners have complied with the aforesaid order dated 04.04.2022, no response has been made.

7. However, learned counsel for the respondent submits that the petitioners are not appearing before the trial Court till date. He further draws the attention of this Court towards the judgment dated 11.07.2023 passed in a petition filed by the present petitioners against M/s Taj Exports, wherein they had been directed to appear before the trial Court within a period of 02 weeks. He further submits that even the said order dated 11.07.2023 has not been complied with so far. He further submits that application moved by the petitioners seeking modification of the order dated 04.04.2022 has been dismissed by this Court, vide order dated 13.07.2023.

8. On 06.09.2023, the case was adjourned by this Court on the submission of learned counsel for the petitioners that the compliance of order dated 04.04.2022 would be made within one week.

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9.

Today, learned counsel appearing for the petitioners prays for an adjournment.
10.

Learned counsel for the respondent has pointed out that the order dated 04.04.2022 has not been complied with by the petitioners.
11.

I have heard the learned counsel for the parties and have also gone through the case file.
12.

The petitioners did not opt to appear before the trial Court for the reasons best known to them and thereby flouted the order passed by this Court. It is not open to a party to dictate the terms of appearance before the trial Court, when a specific direction was issued in the order. If the party wilfully flout the order of this Court, they cannot expect any equitable relief from the Court and they must be made to bear the consequences of their action. After having obtained an order, the party cannot be allowed to sleep over its compliance.
13.

Dismissed.

20.09.2023

Mangal Singh

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?

Yes/No

Whether reportable?

Yes/No