

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

**CRM-M No.2367 of 2024 (O&M)
Date of decision: 18.01.2024**

Rajan Katna and another

... Petitioners

Versus

Wazir Chand HUF Prop. Wazir Chand Rakesh Kumar and another

...Respondents

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Anoop Verma, Advocate for the petitioners.

MAHABIR SINGH SINDHU, J.

Present petition has been filed under Section 482 Cr.P.C. for quashing of impugned order dated 21.11.2023 (P-5), passed by learned Judicial Magistrate 1st Class, Abohar in a case bearing NACT No.199 of 2021 dated 08.03.2021, titled as “**M/s Wazir Chand Etc. Versus Rajan Katna Etc.**”, whereby bail, granted to the petitioner(s), was cancelled; bonds were forfeited to the State and non-bailable warrants have been issued. Further prayer is for quashing the impugned order dated 12.12.2023 (P-9), vide which, application for recalling the aforesaid impugned order

dated 21.11.2023 as well as recalling of warrant of arrests issued vide orders dated 07.11.2023, 21.11.2023 & 05.12.2023 has been dismissed.

(2) Contends that due to ill-health and unavoidable circumstances, petitioner(s) could not appear before learned trial Court, however, learned Counsel representing them duly appeared and also moved an exemption application on behalf of the petitioner(s) on 21.11.2023; but the same has been declined. Also contends that petitioner(s) undertake to regularly appear before learned trial Court on each and every date.

(3) Heard learned Counsel for the petitioner(s) and perused the paper-book.

(4) It transpires that learned trial Court, after perusing oral as well as documentary evidence adduced by the complainant, summoned the petitioner(s) to face trial under Section 138 of the Negotiable Instruments Act, 1881 (*for short 'the Act'*) on 07.03.2022. Thereafter, notice of accusation was served upon the petitioner on 11.08.2023 to which he pleaded not guilty and claimed trial as well as sought time to file an application under Section 145 (2) of the Act for recalling of the complainant and his witnesses for cross-examination. The matter was posted for 06.09.2023. On the next date of hearing i.e. 06.09.2023, petitioner stated before the learned JMIC that there are chances of compromise between the parties and he requested for mediation and as a result thereof, both sides were directed to appear before the Mediation Centre on 18.09.2023, but the mediation failed and it was so recorded by learned JMIC on 18.10.2023. Since then, petitioner is playing hide and seek on one pretext or the other.

His bails bonds & surety bonds were cancelled and consequently, non-bailable warrants of arrest were issued; but the same were received back with the report that house of the petitioner is lying locked. Reference in this regard can be made to the order dated 19.12.2023, passed by the learned JMIC. The copy of above order was retrieved from the website of District Courts and the same is taken on record as Mark 'X'. For reference, the order reads as under:-

“Non-bailable warrants issued against the accused received back with the report that the house of accused was lying locked. Further his counsel is filing application for recalling of warrants. I am satisfied that accused is intentionally avoiding his arrest despite having knowledge about the pendency of present complaint as earlier he was appearing in the present complaint. So, in order to procure presence of accused, he be now summoned through proclamation under Section 82 Cr.P.C. Let, proclamation of accused be issued for 31.1.2024 and serving official is directed to execute the proclamation of accused on or before 31.12.2023 and thereafter make his statement before the Court on 31.1.2024.

Recovery warrants issued against the property of surety of accused not received back. The same be issued afresh for the date fixed. A show cause notice be also issued to the concerned official for not returning the process of the court.”

(5) A perusal of the above order reveals that proclamation under Section 82 Cr.P.C. has been issued for 31.01.2024 and apart that, fresh warrants have already been issued against the surety of the accused.

- (6) In such a scenario, it is apparently clear that petitioner is misusing the process of Court; hence, there is no option except to dismiss the petition.
- (7) Ordered accordingly.
- (8) The above observations may not be construed as an expression of opinion on merits of the present case in any manner.
- (9) Pending application(s), if any, shall also stand disposed off.

18th January, 2024
Gagan

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No