

BHAG RAM

Versus

STATE OF PUNJAB AND ANOTHER

.....Petitioner

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Deepak Verma, Advocate for the petitioner.
Mr. Siddharth Sandhu, AAG, Punjab.
Mr. Parvinder Singh, Advocate for respondent No.2.

HARKESH MANUJA, J. (ORAL)

By way of present petition filed under Section 482 CrPC, prayer has been made for setting aside the order dated 15.12.2022 passed by the Court of learned SDJM, Garhshankar in NACT/74/2021 titled as “Parvinder Singh Rana Vs. Bhag Ram” whereby, the petitioner has been directed to deposit 20% of the cheque amount as interim compensation in exercise of powers under Section 143-A of Negotiable Instruments Act, 1881 (hereinafter referred to as ‘NI Act’).

2. Having been implicated as an accused in the aforementioned complaint, wherein, summoning order was passed against the petitioner on 29.09.2021, he appeared before the trial Court on 13.06.2022 followed by filing of an application under Section 143-A of NI Act at the hands of respondent-complainant seeking issuance of direction to the petitioner for deposit of interim compensation. Notice of accusation was served upon the petitioner by the trial Court on 16.07.2022. The aforesaid application was opposed at the instance of petitioner, the same came to be allowed by the trial Court vide order dated 15.12.2022,

directing the petitioner to deposit interim compensation to the tune of 20% of cheque amount primarily for the reasons that the petitioner delayed his appearance before the trial Court in pursuance to the summoning order passed against him.

3. Impugning the aforesaid order, learned counsel for the petitioner submits that there was no inordinate delay on the part of the petitioner in putting his appearance before the trial Court. The petitioner was never served in pursuance to summoning order and as soon as he came to know about the proclamation in terms of Section 82 CrPC, the petitioner appeared before the trial Court on 13.06.2022 and thus, the impugned order was wholly uncalled for. He further points out that post service of notice of acquisition upon the petitioner, for the past almost 1 year and 8 months, not even a single witness has been examined by the respondent-complainant despite, having availed number of effective opportunities and thus, the order is unsustainable.

4. On the other hand, prayer made herein has been vehemently opposed at the instance of learned counsel representing respondent No.2 while submitting that petitioner deliberately delayed his appearance before the trial court in pursuance to summoning order dated 29.09.2021 and thus, was rightly ordered to deposit 20% of the cheque amount as interim compensation in terms of Section 143-A of NI Act. As regards the delay on the part of respondent-complainant in recording of his evidence, faced with the orders passed by the trial court, learned counsel for respondent is not in a position to controvert the said factual aspect.

5. I have heard learned counsel for the parties and gone through the paper-book.

6. A perusal of record shows that summoning order was passed by the trial court against petitioner on 29.09.2021, the petitioner having not been served through ordinary process/bailable warrants/non-bailable warrants, the proclamation issued under section 82 of CrPC was ordered to be issued against him which came to be effected on 12.05.2022 and soon thereafter, on 13.06.2022, the petitioner appeared before the trial court and since then, he has been continuously facing the trial. Thus, there does not appear to be any inordinate or unexplained delay on the part of petitioner while putting in appearance before the trial court in pursuance to summoning order and observation made in this regard while passing the impugned order is not substantiated or supported from the records.

7. Accordingly, in order to balance the equities, the order dated 15.12.2022 passed by the trial Court is modified to the extent that petitioner shall deposit 5% of the cheque amount as an interim compensation in terms of section 143-A of NI Act before the trial Court within a period of one month from today.

8. Equally important, a perusal of the Zimini orders passed by the trial Court, which have been referred to by the learned counsel representing the petitioner shows that since the day of service of notice of accusation upon the petitioner on 16.07.2022, the respondent complainant has failed to adduce any evidence in support of complaint, and thus, the delay undoubtedly and exclusively in disposal of the complaint is not attributable to the petitioner.

9. Considering the fact that the complaint was filed in the present case on 12.07.2021, and since then not even a single witness has been examined, the trial Court is requested to conclude the proceedings in the complaint within a period of six months in terms of Section 143(3) of NI Act.

10. In view of the above, the present petition stands disposed of.

26.04.2024
Tejwinder

(HARKESH MANUJA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>