



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

CRM-M-7038-2024 (O&M)
Date of Decision : **12.08.2024**

KANIKA ALAIS KANIKA ARORAPetitioner

VERSUS

STATE OF HARYANA AND OTHERSRespondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Lovish Rattan, Advocate, for the petitioner.

Mr. Rajesh Gaur, Addl.A.G., Haryana

KULDEEP TIWARI, J.(Oral)

CRM-32134-2024

1. Application is allowed as prayed for, subject to all just exceptions, and copy of case status with *zimni* orders is ordered to be taken on record as Annexure P-13.

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2. Through the instant petition, prayer is made for quashing of complaint bearing No.NACT-20999 of 2017, dated 21.12.2017 (Annexure P-1) filed under Section 138 of the Negotiable Instruments Act, 1881, and the summoning order dated 27.02.2018 (Annexure P-2), alongwith the order issuing non-bailable warrants of arrest, dated 11.01.2024 (Annexure P-7), passed by the learned Judicial Magistrate Ist Class, Gurugram, and all other consequential proceedings arising therefrom.

3. Learned counsel for the petitioner, at the very outset submits that petitioner's main grievance is against the order dated 11.01.2024, whereby, merely on the affidavit of the complainant, she has summoned through non-bailable warrants, whereas she, in fact was never known as Usha Monga.

4. This Court has perused the *zimni* orders which reflects that one of the main accused-Ashok Kumar Monga, is facing trial since 2018, and was subsequently, declared proclaimed offender on 08.11.2023.

5. This Court has put a specific question to learned counsel for the petitioner, whether, there is any relationship between Ashok Kumar Monga, and the present petitioner, to which he answered in affirmative, and submitted that in fact Ashok Kumar Monga is the father of the present petitioner.

6. This Court has further put a specific question to learned counsel for the petitioner, about the whereabouts of Ashok Kumar Monga, to which he answered that he is in fact confined to bed and is at home.

7. On the issue of delay in approaching this Court, learned counsel for the petitioner, is unable to answer. The summons were issued to the petitioner way back in February, 2018, even the statutory time period as prescribed for filing statutory revision is 90 days. Therefore, the issue which has been raised, cannot be adjudicated on account of a gross delay in approaching this Court.

8. This Court has failed to comprehend, why all the facts regarding; father of the petitioner being bedridden; and he being at home therefore, cannot be declared as a proclaimed person, was not brought to

the knowledge of the learned trial court concerned. Even Sachin Kumar who is the husband of the present petitioner, who stood as a surety to the Ashok Kumar Monga, has also opted not to cause appearance before the learned trial court concerned, despite bailable and non-bailable warrants issued against him. Learned counsel for the petitioner opted to maintain a silence on these issues.

9. It also reflects from the record that the signatory to the cheque is one Usha Monga.

10. This Court has also perused the zimni orders, which reflect that upon causing appearance of the petitioner before the learned trial court concerned, the trial has proceeded further, and a plea of defence has been recorded. Though such plea of defence has not been placed before this Court for perusal, however, learned counsel for the petitioner, orally submits that the plea that she has never been known as Usha Monga, was taken as plea of defence.

11. From the facts narrated above, clearly reflects that the accused persons are evading appearance before the learned trial court concerned, for one reason or another. Whether, the petitioner is known as Usha Monga or not, only the learned trial court would decide this issue, after adduction of evidence, and after perusal of the plea of defence as raised by the petitioner, at an appropriate stage of the trial.

12. In view of the above, this Court under the provisions of Section 482 Cr.P.C. cannot adjudicate the issues as raised through the instant petition, being purely a disputed question of facts, therefore, this Court refrains to exercise its powers to adjudicate such issues.

Consequently, the instant petitioner is ordered to be **dismissed**. However, with liberty the petitioner to raise all the pleas, as raised through the instant petition, before the learned trial Court concerned, at an appropriate stage.

13. It is expected that the learned trial court concerned, shall thoroughly examine the plea of defence as raised by the petitioner, and pass an appropriate order thereupon.

August 12, 2024
dharamvir

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No