

131.

2024:PHHC:028906

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Revision No.1255 of 2024 (O&M)

Date of decision: 29.02.2024

Anita Kumari Sohil @ Sohal

... Petitioner

Versus

Kanwarpal Singh Aneja

... Respondent

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH

Present: Mr. Tarunvir Saini, Advocate for
Mr. Sanjeev Patiyal, Advocate, for the petitioner.

GURBIR SINGH, J.

1. Challenge in this revision petition filed under Article 227 of the Constitution of India is for setting aside the orders dated 19.01.2024 and 02.02.2024 (Annexures P-1 and P-2 respectively) passed by learned Civil Judge (Junior Division), Chandigarh, whereby conditional warrant of arrest against the petitioner has been issued for recovery of amount in Execution Application No.47 of 2020 titled as *Kanwarpal Singh Aneja Versus Anita Kumari Sohal*.

2. Learned counsel appearing on behalf of the petitioner-judgment debtor inter alia submits the petitioner is a lady and a lady cannot be arrested/detained for non-execution of any decree for money. Reliance is placed on the judgment in *Mary Chacko and another Versus Jancy Joseph and others, 2005(4) R.C.R. (Criminal) 554*, an authority of Division Bench of Kerala High Court. It is submitted that the award

was passed in the Lok Adalat, Chandigarh on 13.07.2019 where the matter was settled and only installments of Rs.1.50 lacs were to be paid, but it was wrongly mentioned as Rs.2.50 lacs.

3. I have heard the submissions of learned counsel for the petitioner and have gone through the file.

4. The award was passed by the Lok Adalat. The petitioner undertook to pay a sum of Rs.1.50 lacs by way of installments. In the execution application, conditional warrant of arrest has been issued against the petitioner. It is submitted that the petitioner is ready to pay the amount but she is presently not in a position to pay the entire in due course. However, in order to show bona fide, the petitioner shall pay Rs.50,000/- to the respondent before the Executing Court by tomorrow since the execution is fixed for tomorrow i.e. 01.03.2024.

5. Section 56 of the Code of Civil Procedure reads as under:-

“56. Prohibition of arrest or detention of women in execution of decree for money-Notwithstanding anything in this Part, the Court shall not order the arrest or detention in the civil prison of a woman in execution of a decree for the payment of money.”

6. A woman cannot be arrested or detained in execution of decree for money. Under such circumstances, the petitioner is directed to move an application before the Executing Court for recalling the order of conditional warrant of arrest issued against her. The Executing Court shall decide the said application keeping in view the provisions of Section 56 of CPC and till disposal of said application, the order of

conditional warrant of arrest issued against the petitioner shall remain stayed.

7. Petition stands disposed of accordingly.
8. Pending application, if any, shall also stand dispose of.

(GURBIR SINGH)
JUDGE

February 29, 2024
sanjeev

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No