

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-19791-2024 (O&M)
Date of Decision: 23.04.2024

Narender Singh*Petitioner*
Versus
Mandeep Singh Gujjral*Respondent*

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL
Present: Mr. Shehbaz Thind, Advocate, for the petitioner.

GURVINDER SINGH GILL, J.

1. The petitioner seeks quashing of order dated 07.02.2024 (Annexure P-3) vide which learned Judicial Magistrate Ist Class, Ludhiana has dismissed a complaint filed on behalf of the petitioner under Section 138 of the Negotiable Instruments Act for want of prosecution/non filing of affidavit.
2. The petitioner herein had instituted a complaint under Section 138 of the Negotiable Instruments Act against the respondent in the year 2021, wherein the respondent was ordered to be summoned through bailable warrants vide order dated 02.04.2021. Since the presence of the petitioner could not be secured despite issuance of bailable warrants repeatedly, non-bailable warrants were also ordered to be issued on 31.01.2023. However, the non-bailable warrants were received back with the report that ‘no such person resides at given address’, as is recorded in the *zimni* order dated 14.03.2023.

The complainant was directed to verify if accused resides at given address

and submit requisite information in the shape of affidavit. The said order dated 14.03.2023 is reproduced hereinunder:

“As per the report of Ahlmad, non bailable warrants issued against accused received back unexecuted with report no such person resides at given address. Complainant is directed to verify if accused resides at given address and submit requisite information in shape of affidavit on 29.04.2023.”

3. Despite the learned Judicial Magistrate Ist Class having afforded more than half of a dozen opportunities to the petitioner/complainant spanning over 1 year, the needful was not done by the petitioner and consequently, the learned Judicial Magistrate Ist Class was constrained to pass the impugned order dated 07.02.2024 (Annexure P-3), which reads as under:

“Today the case was fixed for filing affidavit with regard to verify if accused is still residing at given address or not, subject to last and final opportunity.

Present complaint is pending since 29.04.2023 for filing of affidavit. However, despite availing sufficient number of opportunities, complainant did not file affidavit. It transpires that complainant is not interested to pursue the present complaint. Accordingly, present complaint is hereby dismissed for want of prosecution/non filing of affidavit. File be consigned to the Record Room after due compliance.”

4. Having regard to the aforestated position, wherein the petitioner/complainant himself has not bothered to furnish the requisite affidavit, as had been directed by the Court concerned so as to facilitate the Court for securing the presence of the accused, it is evident that it is the petitioner/complainant, who has defaulted and was not serious in pursuing the complaint. The trial Court, as such, was fully justified in dismissing the complaint for want of prosecution. The impugned order dated 07.02.2024, as such, is upheld.

5. The petition is found to be sans merit and is hereby dismissed.

23.04.2024
Vimal

(GURVINDER SINGH GILL)
JUDGE

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