



CR-7401-2024 (O&M) -1-

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

126-B

CR-7401-2024
Date of Decision: 18.12.2024

Reena Petitioner

Versus

Vijay Kumar Chawla Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Ms. Himani Anand, Advocate for the petitioner.

VIKAS BAHL, J (ORAL)

1. Challenge in the present revision petition filed under Article 227 of the Constitution of India is for setting aside the impugned order dated 28.10.2024 in Execution Petition No.209 of 2023 in CIS No.307/2020 passed by the Judicial Magistrate Ist Class, Kurukshetra whereby an application (Annexure P-5) moved by the petitioner for depositing the amount of compromise and for recalling the orders of attachment against the property of the Judgment Debtor has been dismissed.

2. Learned counsel for the petitioner has submitted that as per the Award dated 03.07.2023, the petitioner was to pay the amount as mentioned in the Award upto 10.10.2023 and it was only in case of failure of the petitioner to pay the said amount, that double of the cheque amount along with 10% of the cheque amount as costs was to be paid. It is submitted that the petitioner had made every endeavour to pay the said amount to the respondent before 10.10.2023 but in spite of best efforts, could not pay the

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same as she could not contact the respondent. It is further submitted that the petitioner was on the family way and had delivered a child on 16.12.2023 and has submitted that the said circumstance be also considered for condoning the delay in offering the amount in pursuance of the Award dated 03.07.2023. It is submitted that the petitioner had moved an application dated 17.09.2024 to deposit the amount as agreed vide the compromise and for recalling the orders of attachment of her property and that the petitioner is even now ready to make the payment of Rs.4,50,000/- as per the Award dated 03.07.2023.

3. This Court has heard learned counsel for the petitioner at length and with her able assistance has gone through the record and finds that the impugned order has been rightly passed and the present revision petition being meritless, is liable to be dismissed for the reasons stated hereinafter.

4. It is not in dispute that the respondent had filed three complaints under Sections 138 and 142 of the Negotiable Instruments Act, 1881 with respect to three cheques of the amount of Rs.5 lakhs, Rs.2 lakhs and Rs.3 lakhs, total amounting to Rs.10 lakhs and the said complaints were filed in the year 2019-2020. It is further not in dispute that in the said proceedings, on 03.07.2023, a compromise had been effected between the parties and as per the said compromise, it was stipulated/agreed that an amount of Rs.4,50,000/- in view of the said three cheques of Rs.10 lakhs would be paid by the petitioner upto 10.10.2023 and it was further agreed that in case of failure of the petitioner to have paid the said amount upto the said date, the respondent would be entitled to double of the cheque amount and the petitioner would further be liable to pay 10% of the cheque amount,



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which was required to be deposited by the petitioner as costs with the District Legal Services Authority, Kurukshetra. The relevant portion of the Award dated 03.07.2023 is reproduced as under:-

“3. Considering the separate statement of accused as well as complainant that they have compromised the matter with each other. As per separate statement of accused, compromise has been effected with the complainant Vijay Kumar qua the three complaints of the cheques pending against the accused for the amount of Rs. 10,00,000/- and as per the compromise accused is to make the payment of Rs. 4,50,000/- upto 10% of October 2023 and in case of failure, the accused will be liable to pay the double of the cheque amount and she has no objection if award is passed accordingly. It appears that complainant is concerned with his payment only and will be satisfied if the same is made by the accused as undertaken by her vide her separate statement. Hence, keeping in view the statements of parties, as the accused has acknowledged her liability to pay the amount, the complaint in hand is hereby disposed of without any order as to costs as the present settlement arrived at between the parties is likely to curb the litigation and delay. The award is passed to the effect that accused is directed to make the payment as per her even dated statement and is bound by her statement. The complainant is also bound by his statement.

4. Before parting with present award, it is made clear that



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*if the accused fails to make the payment as per today's compromise/settlement, then in view of the case law cited as **K.N. Govindan Kutty Menon's Case (Supra)**, the complainant will be at liberty to file the execution qua payment undertaken by the accused today in the Court, in the competent Court. It is also made clear that in case the payment, as undertaken by the accused, is not made by the accused within the time undertaken by her and if the complainant is constrained to initiate proceedings against the accused in the execution proceedings, then the accused shall be liable to pay double of the cheque amount to the complainant and 10% of the cheque amount will also be recovered from the accused as costs to be paid/deposited with the D.L.S.A.. Kurukshetra. Accused stands acquitted of the notice of accusation served upon her. Her bail/surety bonds are also discharged. File be consigned to record room after due compliance.*

Pronounced in open Court

(Sher Singh).

Date: 03.07.2023

Judicial Magistrate Ist Class

Kurukshetra UID No.HR0476”

5. Learned counsel for the petitioner fairly submits that the said order has attained finality as no further challenge has been made to the same. An execution petition dated 18.10.2023 was filed by the respondent/decreed-holder/complainant on the averment that the said amount which was to be paid as per the Award dated 03.07.2023 upto 10.10.2023 was not paid upto the said period and thus he was entitled to double of the cheque amount and the petitioner was further required to deposit 10% of the



cheque amount with the District Legal Services Authority, Kurukshetra as costs. In the said proceedings, on 17.09.2024, i.e., after a period of more than one year and 02 months from the passing of the Award dated 03.07.2023, the petitioner moved an application to the effect that the petitioner was ready to deposit the compromise amount and accordingly, prayed for recalling of the orders of attachment passed against her property. In the said application, no specific date prior to 10.10.2023, as to when the petitioner had approached the respondent for the payment of the said amount had been referred to nor any *prima facie* proof regarding the same had been annexed therewith.

6. The decree-holder filed the reply and opposed the said application and the trial Court vide impugned order dated 28.10.2024 observed that since the petitioner had not paid the total amount of Rs.4,50,000/- i.e., the compromise amount upto 10.10.2023, thus in pursuance of the Award, which had attained finality, the petitioner was liable to pay double the amount of the cheque and also 10% of the cheque amount was ordered to be recovered as costs to be paid/deposited with the District Legal Services Authority, Kurukshetra. The said order is in accordance with law and deserves to be upheld. Once the Award dated 03.07.2023 had attained finality and a specific date i.e., 10.10.2023 was fixed for making the payment of the amount to which the parties had agreed, then it was necessary for the petitioner, in order to take the benefit of the said compromise to have made the payment of the amount agreed upto 10.10.2023. The same having not been done in the present case, the subsequent part of the order dated 03.07.2023 requiring the petitioner to pay

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double of the amount of the cheque and also of depositing 10% of the cheque amount as costs, would come into operation and would bind the petitioner.

7. The plea sought to be raised by the petitioner that the petitioner had tried to approach the respondent to make the payment has apparently been taken only for the sake of it, inasmuch as neither in the application nor before this Court any single date on which the petitioner had approached the respondent-decree-holder prior to 10.10.2023 for making the payment, has been mentioned. There is nothing on record to suggest that any such effort was made by the petitioner. Even no notice had been given by the petitioner to the respondent nor any application was made by the petitioner before the Court showing her willingness and readiness to comply with the Award dated 03.07.2023 and thus, the vague plea taken cannot be accepted. On the other hand, the respondent/decree-holder had immediately filed the execution petition on 18.10.2023. Even the present application dated 17.09.2024 has been filed by the petitioner after a period of more than one year and 02 months from the passing of the Award dated 03.07.2023 and after a period of 11 months from the last date on which the payment was to be made, i.e., 10.10.2023 and that too after the property of the petitioner had been attached in the execution proceedings.

8. Even the plea with respect to the petitioner being on the family way and having delivered a child on 16.12.2023 would not call for setting aside the impugned order inasmuch as the said plea was never raised in the application dated 17.09.2024 (Annexure P-5) before the trial Court and moreover, the fact that the child had been delivered on 16.12.2023 would

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show that even on 03.07.2023, when the Award was passed, on that date also, the petitioner was on the family way and the compromise was only for the benefit of the petitioner as she was able to avoid a possible sentence of imprisonment in the proceedings under Section 138 of NI Act and moreover for the cheques of Rs.10 lakhs regarding which complaints were filed in the year 2019-2020, the entire matter had been compromised for a sum of Rs.4,50,000/-. However, it was only on account of the fault of the petitioner in not complying with the award that the matter could not be settled and the respondent/decreed-holder was constrained to file the execution petition.

9. Keeping in view the facts and circumstances of the case, the impugned order dated 28.10.2024 is in accordance with law and the same is upheld and the present petition being meritless, deserves to be dismissed and, accordingly, the same is dismissed.

10. Pending misc. application, if any, shall also stand disposed of.

(VIKAS BAHL)
JUDGE

18.12.2024*D.Bansal*

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