

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

**CRR No.1930 of 2003
Date of Decision : 12.1.2016**

Madan Lal

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM:- HON'BLE MR. JUSTICE GURMIT RAM

Present: Mr. Sachin Mittal, Advocate for the petitioner.

Mr. Pawan Garg, AAG, Haryana.

GURMIT RAM, J.

This revision is preferred by above-said petitioner assailing the impugned order dated 21.8.2003 passed by the Court of learned Sessions Judge, Yamuna Nagar at Jagadhari vide which ₹10,000/- was imposed upon him as the cost for his willful absence from the Court despite his service on the said date.

2. As recorded in the impugned order, the petitioner was the Investigating Officer in criminal case bearing FIR No.65 dated 20.9.2002 u/S 302 read with Section 34, IPC, Police Station Jathlana, Sessions Case No.48 of 26.11.2002 pending before the Court of learned Sessions Judge, Yamuna Nagar at Jagadhari. He was served to appear as a witness before

the said Court for 21.8.2003. On that date, he did not appear despite service before the Court nor did he send any request for adjournment showing his inability to attend the Court. So, in these circumstances the impugned order was followed imposing upon him ₹10,000/- as cost for his willful default to attend the Court despite service.

3. Notice of this revision was given to the respondent – State. Record was also requisitioned.

4. During the pendency of this revision, reply was also sought from the State qua certain questions with regard to proceedings of this case vide order dated 26.8.2015. In the reply, Sh.Ajay Kumar, Deputy Superintendent of Police, Yamuna Nagar filed an affidavit that on 29.9.2003 the Investigating Officer was examined. The case was disposed of vide order dated 17.3.2006 in which one of the accused was convicted and whereas second one was acquitted.

5. I have heard the learned counsel for the petitioner, learned State counsel and have also gone through the record with their valuable assistance.

6. It has been established on the record that petitioner did not appear before the learned trial Court despite service on 21.8.2003. He also did not send any request to the Court seeking adjournment. So it is a clear case of willful default on the part of the petitioner. But at the same time, the Court was also having an alternative remedy to issue bailable warrant of the petitioner to secure his presence. This case is pending since the year 2003 before this Court. I am of the considered view that before adopting any coercive method to procure the presence of any witness, it is

advisable to exhaust the alternative remedy/process, if any, available. The ends of justice in this case will meet if the same be disposed of with a direction to the petitioner to remain careful and not to repeat such like act in future.

Ordered accordingly.

With the above-said modification in the impugned order, this revision petition stands disposed of accordingly.

(GURMIT RAM)
JUDGE

12.1.2016
Brij