

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-1881-2016

Date of decision: October 19, 2016

Balbir Singh @ Kala

.... Petitioner...

Versus

State of Punjab and others

.... Respondents...

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. R.K. Arya, Advocate,
for the petitioner.

Mr. J.S. Sekhon, AAG, Punjab.

JASPAL SINGH, J. (ORAL)

The instant petition has been preferred under Section 482 of the Code of Criminal Procedure for quashing of order dated 03.06.2015 (Annexure P-2) passed by JMIC, Batala whereby complaint No. 220, dated 19.09.2011/RBT No.113, dated 31.07.2013, titled as ***“Balbir Singh vs. Kewal Singh and another”*** preferred by the petitioner has been dismissed in default.

2. Learned counsel for the petitioner contends that due to custody in another case FIR No. 111, dated 04.09.2013, under Section 420 IPC, Police Station Civil Line, Batala, Gurdaspur, the petitioner could not attend the court proceedings in the criminal complaint filed by the petitioner before Id. JMIC, Batala and consequently, on 03.06.2015, Id. JMIC Batala

dismissed the complaint in default.

3. Undisputably, complaint has not been decided on merits. It has been simply dismissed in default on the ground that neither the complainant nor his counsel come present in Court on the date fixed. Apparently, impugned order is not legally justified, as the complaint should have been heard and decided on merits. Thus, impugned order is not sustainable in the eyes of law.

4. Without commenting much on the impugned order, the impugned order dated 03.06.2015 is set aside by way of acceptance of instant petition. The matter is remitted back to the 1st trial court with direction to decide the matter afresh.

5. Petitioner is directed to appear before the 1st Judicial Magistrate Ist Class, Batala on 28.11.2016.

October 19, 2016
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(JASPAL SINGH)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No