

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

CRM-M No.39765 of 2012
Date of decision: 30th March, 2016

Hans Raj

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. S.S. Siao, Advocate for the petitioner.

Mr. Munish Sharma, Asstt. Advocate General, Haryana
for respondent No.1.

Mr. S.S. Goraya, Advocate
for respondent No.3.

Mr. Aman Arora, Advocate
for respondent No.4.

Mr. Abinashi Singh, Advocate
for respondent No.5.

None for respondent No.6.

FATEH DEEP SINGH, J.

In this petition of petitioner/complainant Hans Raj under Section 482 Cr.P.C. he has sought a prayer for quashment of orders dated 06.08.2012 (Annexure P3) passed by the Court of learned Additional Sessions Judge, Fatehabad by virtue of which his revision petition stood dismissed in default on account of non-prosecution.

Upon hearing Mr. S.S. Siao, Advocate for the petitioner; Mr. Munish Sharma, Asstt. Advocate General, Haryana for respondent No.1; Mr. S.S. Goraya, Advocate for respondent No.3; Mr. Aman Arora,

Advocate for respondent No.4; Mr. Abinashi Singh, Advocate for respondent No.5 and on perusal of the records.

Undisputedly, the petitioner had initially filed a criminal complaint under Sections 323/420/467/468/471/382/452/506/34 IPC against four accused now respondents. The Court of learned Sub Divisional Judicial Magistrate, Tohana dismissed the complaint vide orders dated 16.04.2011 (Annexure P1/P2) and thus discharged the accused. Aggrieved over these findings, the complainant had filed a revision before learned Additional Sessions Judge against these orders of the Court below and it is during the proceedings the impugned orders were passed.

Heard Mr. S.S. Siao, Advocate for the petitioner; Mr. Munish Sharma, Asstt. Advocate General, Haryana for respondent No.1; Mr. S.S. Goraya, Advocate for respondent No.3; Mr. Aman Arora, Advocate for respondent No.4; Mr. Abinashi Singh, Advocate for respondent No.5.

The settled proposition of law as has been laid down in case of **‘Harpinder Singh v. State of Punjab’ 2010(13) SCC 533** and **‘Surya Baksh Singh v. State of U.P.’ 2015(1) SCC (Cri) 313** which could not be displaced by any of the counsel to the effect that a Court cannot and by no means can dismiss either a criminal revision or a criminal appeal in default as it has no power to do so by virtue of Section 384 and Section 397/401 Cr.P.C. respectively and in case of any eventuality if the revision petitioner or the appellant does not appear to

argue the Court cannot absolve itself of the obligation that is cast upon it by law to hear and dispose it off on merits. If it ought to in the absence of parties and the Court can appoint a counsel out of the free legal aid and hear and dispose off as per law. Certainly the learned Court below by the impugned findings has given a go by to this mandate of law and thus has certainly fallen into an error thus not only causing immense prejudice to the case of the petitioner but also has resulted in circumvention of law thus necessitating this Court to show indulgence by exercise of its inherent powers under Section 482 Cr.P.C. to meet the ends of justice.

In the light of the same the impugned order dated 06.08.2012 (Annexure P3) are hereby set aside. The learned Additional Sessions Judge/successor Court is directed to proceed ahead into the matter as per law. The petition stands allowed in those terms.

(FATEH DEEP SINGH)
JUDGE

March 30, 2016

rps

Whether speaking/reasoned Yes/No

Whether reportable Yes/No