

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

CRM No.M-34844 of 2014 (O&M)

Decided on: 11.12.2017

Lalit Jain and another

....Petitioners

Versus

Sunil Kumar Chaudhry

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. P.K. Kukreja, Advocate
for the petitioners.

ARVIND SINGH SANGWAN, J. (Oral)

CRM No.35931 of 2017

Prayer in this application is for recalling the order dated 25.10.2017 whereby CRM-M No.34844 of 2014 has been dismissed for non-prosecution.

Heard.

In view of averments made in the application supported by an affidavit of Sanjeev Gupta, Advocate, the application is allowed, order dated 25.10.2017 is recalled and the petition is ordered to be restored to its original number and is being taken up today for hearing.

MAIN CASE

Prayer in this petition is for modification of the impugned order dated 22.05.2014 passed by the trial Court as well as the order dated 01.07.2014 passed by the Revisional Court vide which the application filed by the petitioners for exemption from personal appearance has been dismissed.

A perusal of the record show that the respondent/complainant has filed a complaint way back in the year 2004 before the trial Court and thereafter, the matter remained pending for a considerable long time for recording the pre-charge evidence and vide order dated 25.05.2014, the pre-charge evidence of the complainant was closed and simultaneously vide order of even date, the request of the petitioners for granting them exemption from personal appearance was also declined.

Counsel for the petitioners has further submitted that the petitioners are residents of Mumbai and in view of the fact that they are facing the prosecution since 2004, it is difficult for them to appear before the trial Court on each and every date of hearing.

Counsel for the petitioners has relied upon the judgment ***“M/s Bhaskar Industries Limited vs M/s, Bhiwani Denis and Apparels Limited”***, 2001(4) RCR (Criminal) 137 to submit that in a particular case where it is found that it is harsh for the accused persons to appear personally before the Court in proceedings under Section 138 of the Negotiable Instruments Act, his personal appearance be dispensed with.

After hearing counsel for the petitioners, the impugned order dated 22.05.2014 passed by the trial Court as well as the order dated 01.07.2014 passed by the Revisional Court are partly set-aside. Since, the matter pertains to the year 2004 and it is still pending even after a lapse of 13 years, the present petition is disposed of with a direction that the personal appearance of the petitioners before the trial Court will remain exempted subject to the conditions imposed by the

trial Court. Since the matter relates to the year 2004 and is pending for the last 13 years, the trial Court is directed to dispose of the matter expeditiously within a period of 06 months.

With the aforesaid directions, the present petition is disposed of.

(ARVIND SINGH SANGWAN)
JUDGE

11.12.2017
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Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No