

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

CRM-M-36461-2014 (O&M)
Date of Decision: January 24, 2017

Raghubir Singh

.....PETITIONER(s).

VERSUS

Gurmeet Singh and others

....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr.M.S.Dhami, Advocate,
for the petitioner.
None for respondents No.1 and 3.

SURINDER GUPTA, J.(Oral)

Heard.

Learned counsel for the petitioner submits that after the conclusion of preliminary evidence, complaint was fixed for 8.5.2014 on which date, it was dismissed due to non-appearance of the complainant. The complainant had in fact noted the date 10.5.2014 as the next date of hearing and due to this reason, he could not appear in the Court. Even the counsel for the complainant could not appear as the date in his diary was also mentioned as 10.5.2014.

As per order dated 15.4.2013, preliminary evidence was closed by the complainant after tendering documents and the case was fixed for 22.5.2013 for “consideration on summoning of accused”. After hearing part-arguments on 3.1.2014, the case was fixed for 3.2.2014 for “tendering of case law and remaining consideration”. Again it was adjourned for 11.2.2014 and 7.3.2014 for consideration. Thereafter, on 4.4.2014, the case

was put up before Duty Magistrate as the Presiding Officer had relinquished the charge and it was adjourned for 8.5.2014.

Once the evidence has been completed, it was for the learned Magistrate to look into the evidence and form a view as to whether the accused are to be summoned. Complainant had been appearing in this case on earlier occasions and order dated 8.5.2014 dismissing complaint due to his non-appearance is not legally sustainable.

In these circumstances, observations made by learned Sessions Judge, SBS Nagar, that attitude of the complainant was callous and lackluster are not based on facts of case on record. Learned Magistrate had dismissed the complaint without looking into the previous order and taking note of the fact that part arguments had been addressed and evidence of the complainant has already been completed.

Keeping in view the above discussion, this petition is allowed. Orders dated 8.5.2014 passed by the trial court and 29.8.2014 passed by revisional court are set aside and the learned trial court is directed to restore the complaint and proceed with it in accordance with law.

Petitioner is directed to appear before the court concerned on 28.2.2017.

January 24, 2017
Paritosh Kumar

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No