

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

CRM-M-980-2016

Date of decision :08.08.2017

Rajnish Kumari

..... Petitioner

Versus

Union Territory of Chandigarh and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE H.S. MADAAN

Present : Mr. Arjun Sheoran, Advocate
for the petitioner.

H.S. MADAAN, J.

The petitioner-Rajnish Kumari had filed a criminal complaint against accused Rashpal Malhotra, Dr. Sucha Singh Gill, Sh. S.S. Sangwan and Dr. Kuldeep Kaur, which was filed in the Court of Illaqa Magistrate, Chandigarh with a prayer under Section 156(3) Cr.P.C. for issuance of direction to SHO, Police Station Sector 19, Chandigarh for registration of FIR against respondents No.1 to 4 on the basis of complaint dated 10.07.2013. Since none was present in the Court on behalf of the complainant on 08.01.2015, after waiting upto 3 p.m. observing that case was fixed for evidence of the complainant, however, neither the complainant nor anybody else on her behalf appeared being of the view that complaint was not interest in pursuing the complaint, the complaint was

dismissed in default and file was ordered to be consigned to record room after due compliance.

Feeling aggrieved by the said order the complainant has filed present petition under Section 482 Cr.P.C. for recalling/quashing of order dated 08.01.2015 passed by JMIC, Chandigarh.

I have heard learned counsel for the petitioner, besides, going through the record.

Section 482 Cr.P.C. provides “*saving of inherent powers of High Court. Nothing in this Code shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice*”.

In the incident the private complaint filed by the complainant had been dismissed for non-appearance of complainant and non-prosecution. The remedy for challenging was in the form of filing revision petition against the said order before the Court of Sessions in terms of Section 397 Cr.P.C. or before this Court vested with similar power of revision. Therefore, filing of petition under Section 482 Cr.P.C. was not called for. Law is well established that when a specific provision is there in the Code for redressal of grievance of a litigant on criminal side, then power under Section 482 Cr.P.C. is not to be used. Learned counsel for the petitioner has referred to citation **Punjab State Warehousing Corporation vs. Shree Durga Ji Traders 2011(14) SCC 615** wherein it was observed that availability of alternative remedy of filing appeal is not an absolute bar to entertain a petition under Section 482 Cr.P.C.. However, that authority is

not applicable due to different facts and circumstances. Here alternative remedy being available, the petitioner should have availed of the same rather than filing the petition in hand, therefore, the petition is not maintainable and is bound to fail and is dismissed accordingly.

08.08.2017

Gaurav Sorot

**(H.S. MADAAN)
JUDGE**

1. Whether reportable? **No**
2. Whether speaking / reasoned? **Yes**