

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-A-1032-MA of 2013

Date of Decision: 07.05.2018

Bharat Singh

...Appellant

VERSUS

State of Haryana and others

...Respondent

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Aakash Dalal, Advocate
for Mr. Rajesh Lamba, Advocate
for the appellant.

Mr. Satish Saini, DAG, Haryana.

Mr. Gaurav Tyagi, Advocate
for respondents no. 2 to 5.

SURINDER GUPTA, J.(Oral)

Complaint filed by appellant-Bharat Singh was dismissed by the trial Court vide order dated 06.05.2013 due to non-appearance of appellant or his counsel.

Learned counsel for the appellant submits that in fact counsel for the appellant had noted wrong date, as such, appellant could not appear in Court on 06.05.2013. On earlier dates, he had been regularly appearing in Court.

Perusal of interim order-sheets on the trial Court record show that on 21.11.2011, service of accused was complete and the case was fixed for recording pre-charge evidence. Till 06.05.2013, complainant-appellant had been allowed eight opportunities to conclude pre-charge evidence but he failed to examine all the witnesses. The accused had been appearing on each and every date of hearing and even on 06.05.2013, they were present in

Court.

Still keeping in view submission of learned counsel for the appellant and to decide the complaint on merit, I am of the opinion that order passed by the trial Court dated 06.05.2013 be set aside and complaint be sent back to trial Court to decide the same on merit. However, at this juncture, I am also conscious of the fact that remanding of the case after such a long time will cause unnecessary harassment to accused also. The lapse is on the part of appellant for which he is burdened with costs of ₹10,000/- to be deposited with the trial Court within four weeks. On deposit of the costs, a sum of ₹5000/- be paid to accused. Parties are directed to appear before the trial Court on 02.06.2018.

As it is an old case, trial Court will afford only one opportunity to complainant-appellant to conclude pre-charge evidence and after conclusion of pre-charge evidence, complaint will be disposed of expeditiously by giving short adjournments, preferably within a period of four months thereafter.

May 07, 2018

jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No