

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

CRM-A-1650-MA-2015

Date of decision: August 24, 2018

Bhupinder Sharma

....Applicant

Versus

Prem Pal

....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI

Present: Mr. Munish Mittal, Advocate
for the applicant.

None for the respondent.

RAJ SHEKHAR ATTRI, J.(ORAL)

The present application filed under Section 378(4) of Code of Criminal Procedure is for permission to grant leave to appeal against the order dated 15.07.2015.

The case was fixed for defence evidence but no evidence was produced by the accused. The presence of the applicant/complainant was not required. However, on that day no defence evidence was produced but complainant was found to be absent. As such, the complaint was dismissed for want of prosecution.

To the mind of this court, evidence has already been produced by the applicant. The order dated 21.04.2015 transpires that the case was fixed for defence evidence for 15.07.2015. It was the duty of the court to dispose of the matter on merits or to allow the accused to lead his evidence. Lower court record transpires that neither list of witnesses filed nor any diet money was deposited. In spite of that, the complaint was dismissed without any cogent reason.

This court is of the view that on that day the presence of the petitioner was not required. Apart from it, after framing of charge, State to be impleaded as a party. No justifiable reasoning has been put forth for the same for dismissal of the complaint. As such, impugned order dated 15.07.2015 stands *set aside*. Complaint is restored to its original number and be decided in accordance with law.

Applicant is directed to appear before the trial court on 17.09.2018.

Disposed of accordingly.

(RAJ SHEKHAR ATTRI)
JUDGE

August 24, 2018
m. sharma

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No