

In the High Court of Punjab & Haryana at Chandigarh.

CRM-M-3525-2014

Date of decision: 19.02.2018

Gajjan Singh

..... Petitioner.

vs.

State of Punjab & ors

..... Respondents.

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. L.S.Sidhu, Advocate
for the petitioner.

Mr. Abhaypal Singh Gill, AAG, Punjab.

Mr. Parminder Singh Rai, Advocate
for the private respondents.

ARVIND SINGH SANGWAN, J.(ORAL)

Prayer in this petition is for setting aside the impugned order dated 25.07.2012 passed by Additional Chief Judicial Magistrate, Ferozpur, vide which, the complaint filed by the petitioner i.e. criminal complaint No. 300-1/25.09.2009 titled as **Gajjan Singh vs. Mohinder Singh and others** under Sections 452/326/325/324/323/34 IPC, was dismissed in default on account of non appearance on the complainant-petitioner and the order dated 06.11.2013 passed by Additional Sessions Judge, Ferozpur, vide which the revision filed by the petitioner was dismissed.

Counsel for the petitioner submits that the petitioner has filed a criminal complaint and he was regularly appearing in the same. However, on account of noting the wrong date i.e. 30.07.2012 instead of actual date i.e. 25.07.2012, the trial Court dismissed the complaint for want of prosecution.

It is further submitted that before dismissal of the complaint even no notice was issued to the counsel for the petitioner. Even counsel for

the petitioner has noticed the wrong date.

Counsel further submits that on 30.07.2012 when the petitioner went to his counsel, he came to know about the fact that the complaint was dismissed for want of prosecution on 25.07.2012 and he immediately filed a revision petition for challenging the said order and the Revisional Court has also dismissed the same only on the ground that at this stage when the complaint was dismissed for want of prosecution, the petitioner-complainant has taken sufficient time to conclude his evidence but the same was not concluded which shows that the complainant was not pursuing his complaint seriously.

Counsel for the respondent-accused persons has submitted that there is no bar that the petitioner-complainant can file second complaint as on that stage, the accused persons were not summoned by the trial Court.

After hearing learned counsel for the parties, I find merit in the present petition.

The petitioner has filed a complaint against the respondents under Sections 452/326/325/324/323/34 IPC with the allegation that on 13.11.2008 at about 2.30/3:00 P.M., all the respondents in conspiracy with each other armed with weapons, forcibly entered into the house of the complainant and caused grievous injuries to him. The complainant was taken to Civil Hospital, Ferozpur and he was medico-legally examined. It is further stated in the complaint that the matter was reported to the police but no action was taken and, thereafter, the complainant has no other remedy except to file the complaint. It is also worth noticing here that the complainant has given a reasonable grounds that he has wrongly noted the date as 30.07.2012 whereas the actual date was 25.07.2012 and when he

approached his counsel in the trial Court on 30.07.2012, he came to know that the complaint has already been dismissed for want of prosecution. Thereafter, he has filed a revision petition before the Additional Sessions Judge, Ferozpur, without any further delay.

In view of the above, this petition is allowed.

The impugned order dated 25.07.2012 passed by the trial and order dated 06.11.2013 passed by the Revisional Court are set aside subject to payment of costs of ₹5,000/- to be deposited with District legal Services Authority, Ferozpur. Complaint is ordered to be restored to its original number and stage.

Parties are directed to appear before the trial Court/Successor Court on 05.03.2018.

19.02.2018
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(ARVIND SINGH SANGWAN)
JUDGE

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