

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-35371-2015 (O&M)

Date of decision: 25.04.2018

Balbir Singh Virdee

... Petitioner

Vs.

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Ms. Amandeep Sibia, Advocate for
Mr. Dhiraj Chawla, Advocate
for the petitioner.

Ms. Samina Dhir, DAG, Punjab.

Mr. Sawan Choudhary, Advocate for
mr. Sandeep Kumar, Advocate
for respondent No.2.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for quashing of the order dated 13.03.2015 passed by the revisional Court, vide which, without issuing a notice to the petitioner i.e. respondent before the revisional Court, revision petition was allowed and the order dated 15.09.2014 passed by the trial Court, dismissing the complaint in default, was set aside and the trial Court was directed to proceed further in accordance with law.

Learned counsel for the petitioner has relied upon **Sardar Singh Vs. Gian Chand, 2015 (8) RCR (Criminal) 567, Punjab State Industrial Development Corp. Ltd. Vs. M/s Asia Spintex Ltd. and others, 2016 (2) Law Herald 1420 and Surender Vs. Deshraj, 2016 (3) RCR (Criminal) 624,**

to submit that when a complaint is dismissed, it amount to discharge and only appeal is maintainable and revisional Court has wrongly entertained the revision. Learned counsel further relies upon **Mohit @ Sonu and another Vs. State of U.P. and another, 2013 (3) RCR (Criminal) 673**, wherein the Hon'ble Supreme Court has held that after passing of an order by the trial Court, a right is vested in favour of a person, in whose favour such order has been passed and the revisional Court, while entertaining and deciding the revision petition, should issue a notice to the aggrieved person and decide the revision petition after affording opportunity of hearing.

A perusal of the impugned order shows that it has been noticed in para No.3 that there is no requirement of effecting service on the respondent i.e. present petitioner, as he has not put appearance before the trial Court and due to which, the complaint was dismissed for non-prosecution vide order dated 15.09.2014.

After hearing learned counsel for the parties, in view of the judgment of the Hon'ble Supreme Court in **Mohit @ Sonu's** case (supra), the matter is remanded back to the Additional Sessions Judge to pass a fresh order after affording an opportunity of hearing to the parties.

The parties are directed to appear before the Additional Sessions Judge, Ludhiana on 07.05.2018.

Disposed of, accordingly.

[**ARVIND SINGH SANGWAN**]
JUDGE

25.04.2018
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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No