

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Sr. No.252

CRM-M-3903-201 8

Date of decision : 05.07.2018

State represented through Labour Enforcement Officer (Central)

..... Petitioner

VERSUS

Sh. L.K. Tete

..... Respondent

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Arun Gosain, Advocate, for the petitioner.

SUDHIR MITTAL, J. (Oral)

Service is complete.

2 This petition has been filed for quashing of orders dated 07.09.2012 (Annexure P3) and 17.10.2015 (Annexure P4) passed by the Chief Judicial Magistrate, Bathinda as well as order dated 13.07.2016 (Annexure P5) passed by the Addl. Sessions Judge, Bathinda.

3 The Union of India had moved a complaint under Section 29 of the Industrial Disputes Act, 1947 through the Labour Enforcement Officer (Central), Kendriya Sadan, Sector-9A, Chandigarh. The said complaint was dismissed for want of prosecution vide order dated 07.09.2012 (Annexure P3). Restoration of the complaint was sought on the ground that a wrong date had been noted. However, the application for recalling and restoration was rejected vide order dated 07.10.2015 (Annexure P4) on the ground that a criminal Court has no power to recall its order. Revision was preferred against the said order, but the same was also rejected vide order dated 13.07.2016 (Annexure P5).

4 Learned counsel for the petitioner submits that the non-appearance of the complainant-petitioner was inadvertent and on

account of fact that a wrong date had been noted. Even otherwise, vide order dated 12.09.2011, the presence of the complainant had been dispensed with.

5 None appears for the respondent despite service.

6 Non-appearance of the complainant-petitioner was on account of a justified reason especially when his personal appearance had already been exempted.

7. Accordingly, petition is allowed; impugned order dated 07.09.2012 (Annexure P3) and dated 17.10.2015 (Annexure P4), passed by the Chief Judicial Magistrate, Bathinda, and order dated 13.07.2016 (Annexure P5) of the Addl. Sessions Judge, Bathinda, are set aside. Complaint case No.10 of 12.12.2011 (Annexure P2) is ordered to be restored at its original number of institution and the trial Magistrate shall proceed therewith in accordance with law.

(SUDHIR MITTAL)
JUDGE

05.07.2018

Ramandeep Singh

Whether speaking / reasoned

Yes / No

Whether Reportable

Yes/ No