

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

CRR-2502 of 2016
Date of Decision: 12.01.2018

GURBAJ SINGH

....Petitioner

Versus

AZAD SINGH AND ORS

....Respondents

CORAM:HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. G.S. Sandhu, Advocate
for the petitioner.

Mr. Vikas Dhull, Advocate for
Mr. Amit Khatkar, Advocate
for respondents No. 1,2,3 and 6.

MAHABIR SINGH SINDHU, J.(Oral)

The present petition has been filed for setting aside the impugned order dated 16.03.2016 vide which the complaint of the petitioner has been dismissed for non prosecution.

It is contended that as a matter of fact the case was adjourned to 16.01.2016 but on the account of holidays, the case was preponed and fixed for 12.01.2016 and thereafter it was adjourned to 12.02.2016 which was duly noted and again the case was adjourned to 16.03.2016 to await the report under Section 202 Cr.P.C. On 16.03.2016 although the counsel for the petitioner was present but the petitioner could not make himself available due to lack of communication from his Advocate. The non appearance of the applicant is not intentional and the order deserves to be set aside and quashed.

On the other hand, learned counsel for the respondent vehemently opposed the prayer of the petitioner.

I have considered the submissions of both sides and found that the learned trial Court has dismissed the complaint on account of non

appearance of complainant/petitioner and which was not deliberate; rather due to communication gap with his counsel. Consequently, the impugned order dated 16.03.2016 is set aside subject to payment of costs Rs.10,000/- by the petitioner to the opposite side. Both the parties are directed to appear before the learned trial Court on 27.02.2018.

[MAHABIR SINGH SINDHU]
JUDGE

January 12, 2018
rashmi

Whether speaking/reasoned	yes/no
Whether reportable?	yes/no