

133.

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

CRM-M-3937-2019

Date of decision:25.01.2019.

BRIJESH KUMAR CHOUDHARY AND ORS

... Petitioners

versus

STATE OF HARYANA

.... Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Ajay Kalra, Advocate,
for the petitioners.

HARI PAL VERMA, J.(Oral)

Prayer in this petition filed under Section 482 Cr.P.C. is for quashing the order dated 23.01.2019 (Annexure P-5) passed by learned Judicial Magistrate Ist Class, Panchkula whereby for non-appearance on the part of the petitioners, learned trial Judge while cancelling the bail has forfeited the surety bonds of the petitioners-accused to the State and has issued their warrant of arrest for 13.02.2019.

Notice of motion.

At the asking of the Court, Mr.Raj Kumar Makkad, Senior DAG, Haryana, accepts notice on behalf of respondent-State.

At this stage, Mr. Ashwani Talwar, Advocate, has put in appearance on behalf of complainant.

Let a copy of paper book be given to learned State counsel during the course of the day.

Learned counsel for the petitioners states that on 23.01.2019,

parties could not appear before the trial Court as on that very day i.e.

23.01.2019, the matters between the parties were pending before this Court and petitioner No.1-Brijesh Kumar Choudhary was present in the High Court to pursue his petition i.e. CRM-M-33804-2018 filed by his wife Suman Lata, titled as “Suman Lata Versus State of Haryana” and CRM-M-21251-2018 titled as “Supriya Singh Versus State of Haryana and another”, whereby complainant has sought cancellation of anticipatory bail granted to petitioner No.2-Vivek Kumar Choudhary. Since the matter was argued in detail and it took sufficient time, petitioner No.1 could not appear before the trial Court on the relevant date in the pre-lunch session, whereas for the remaining petitioners No.2 to 4, an application seeking exemption was moved. However, the application was not entertained by the learned trial Court for the reason that the same was put up in the post lunch session. He states that the petitioners had no intention to delay the trial in any manner, rather they are required to come from Ghaziabad (UP) to such a distant place at Panchkula. He further states that after concluding the arguments before this Court in CRM-M-33804-2018 (supra) and CRM-M-21251-2018 (supra), petitioner No.1 along with the counsel has appeared before the trial Court, but by that time the learned trial Court has already passed the order. Thus the impugned order is passed ignoring the inability of appearance of the petitioners.

Mr. Ashwani Talwar, learned counsel appearing on behalf of complainant does not controvert the fact that the matter between the parties was argued before this Court on 23.01.2019.

I have heard learned counsel for the parties.

Considering the fact that the petitioners have reasonable cause

undertake to appear before the trial Court, the present petition is accepted.

The order dated 23.01.2019 (Annexure P-5) is hereby set aside.

However, the petitioners shall appear before the trial Court on the date fixed i.e. 13.02.2019. In case, they have a genuine cause for their non-appearance, they will move appropriate application for exemption, which shall be dealt with in accordance with law. However, that would be subject to payment of costs of Rs.5,000/- to be deposited with the Poor Patients' Welfare Fund of the Postgraduate Institute of Medical Education and Research (PGIMER), Chandigarh.

(HARI PAL VERMA)
JUDGE

25.01.2019

sanjeev

Whether speaking/reasoned
Whether Reportable:

Yes/No.
Yes/No.