

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

CRM-M-5962-2019

Date of decision-08.02.2019

Mohan Tiwari

...Petitioner

Vs.

Anil and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Ankur Malik, Advocate for the petitioner.

MANOJ BAJAJ, J.

Petitioner-Mohan Tiwari has filed this petition under Section 482 of Code of Criminal Procedure for setting aside the order dated 11.01.2019 passed by Judicial Magistrate First Class, Faridabad and to further direct the trial Court to restore the criminal complaint No.745 dated 24.12.2015 registered under Sections 323, 325 and 506 of Indian Penal Code.

At the time of passing of the impugned order dated 11.01.2019, the matter was pending before the trial Court for recording of pre-charge evidence and the accused in the case have already been summoned. On the said date, the petitioner/complainant did not appear before the trial Court and the Court proceeded to dismiss the complaint for want of prosecution.

Learned counsel for the petitioner contends that somehow the date was wrongly noted by the petitioner/complainant as 16.01.2019 instead of 11.01.2019 and on 16.01.2019, he came to know about the dismissal of

the complaint for want of prosecution.

Learned counsel for the petitioner further contends that the absence on 11.01.2019 before the trial Court was not intentional rather the petitioner was present in this Court in connection with some other case, pending before this Court. Learned counsel further contends that no prejudice would be caused to the respondents in case the petition is allowed and the criminal complaint mentioned above is restored before the trial Court.

The explanation offered by the petitioner appears to be sufficient and justifiable, therefore, same is accepted.

Notice is not being issued to accused as it will cause unnecessary burden upon him to contest this case. However, it is made clear that in case any of the facts as pleaded in the petition are found to be incorrect or misleading, it shall be open for the accused to move an application for recalling of the order dated 11.01.2019.

Considering the above sequence of events, the impugned order dated 11.01.2019 (Annexure P-1) is set aside and complaint is restored to its original number. The petitioner is directed to appear before the trial Court on 27.02.2019. Thereafter, the trial Court shall proceed with the complaint case in accordance with law.

Disposed off.

(MANOJ BAJAJ)
JUDGE

08.02.2019

vanita

Whether speaking/reasoned :

Yes

No

Whether Reportable :

Yes

No