

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

CRM-A-638-MA-2013 (O&M)

Date of decision : 03.07.2019

Rajinder Kumar

...Applicant/appellant

Versus

Rameshwar

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. G.S. Sandhu, Advocate for the applicant/appellant.

Mr. Sumit Gupta, Advocate for the respondent.

ANIL KSHETARPAL, J. (ORAL)

Challenge in this petition is to the order dated 01.06.2013 passed by the learned Judicial Magistrate, Ist Class, Karnal, dismissing the criminal complaint under Sections 323, 324, 325, 326, 148, 149, 506 of the Indian Penal Code for non-prosecution.

Learned counsel for the applicant/appellant contends that the complainants had been regularly appearing without any default from the time the complaint was instituted. He further submits that on account of mis-communication from the counsel for the complainants, a wrong date was noted which resulted into non-appearance of the appellant-complainants in the Court on 01.06.2013.

Learned counsel for the respondent is unable to dispute this position.

Keeping in view the aforesaid facts, learned Judicial Magistrate ought to have granted one opportunity to the applicant/appellant-complainants by issuing notice to them. The complainants file the cases to get justice and in the criminal complaint cases, they are not on trial. The trial courts should be conscious of such situation.

Accordingly, the order under challenge is set aside.

Complaint is restored to its original number.

Parties through their counsel are directed to appear before the trial Court on 02.08.2019.

Disposed of.

03.07.2019

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No