

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

222

CRM-A-215-MA-2018(O & M)
Date of Decision:26.02.2019

Baljit Kaur

...Applicant

Versus

Satnam Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Rahul Sharma, Advocate
for the applicant.

MANOJ BAJAJ, J.(ORAL)

Baljit Kaur-petitioner has preferred this application to challenge the order dated 17.11.2017 passed by the learned Judicial Magistrate Ist Class, Ludhiana whereby the complaint No.441-A dated 18.10.2012 registered under Sections 406, 420, 498-A, 494 and 506 IPC was dismissed for want of prosecution and the accused persons were discharged.

Learned counsel for the applicant submits that apart from the present complaint i.e. complaint No.441-A dated 18.10.2012, the complainant has also filed the complaint under the Protection of Women from Domestic Violence Act, 2005 against the respondent-Satnam Singh. Both the cases were fixed for 18.10.2017 and it being a holiday, the cases were taken up on 21.10.2017. On 21.10.2017, the applicant appeared but the respondent was not present and the case was adjourned. The applicant noted down the next date of hearing in both the cases as 05.12.2017. On 05.12.2017 the applicant appeared and came to know that only one case,

i.e. under the Protection of Women from Domestic Violence Act, 2005 has been fixed. When she inquired about the present complaint, she came to know that the same was dismissed on 17.11.2017 for want of prosecution and the accused were ordered to be discharged. He further submits that the applicant was regularly appearing before the trial Court. The absence of the applicant on 17.11.2017 was neither willful nor intentional as she noted down the next date of hearing as 05.12.2017.

The impugned order dated 17.11.2017 does not strictly amounts to acquittal and, therefore, the present application is treated under Section 482 Cr.P.C.

The complaint is at the initial stage. The impugned order dated 17.11.2017 has been perused and apparently, the trial Court has proceeded to pass the extreme order of dismissal of the complaint for want of prosecution by ignoring the fact that even accused was absent. Had the complainant appeared on the said date, the Court could not have proceeded with any effective proceedings. Also at this stage the notice is not being issued to the accused, as it may cause burden upon him.

In view of the above, the application is allowed and the impugned order dated 17.11.2017 passed by the Judicial Magistrate Ist Class, Ludhiana is set aside. The complaint is restored to its original number and the learned trial Court shall proceed with the same in accordance with law.

26.02.2019

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(MANOJ BAJAJ)
JUDGE

Whether Speaking/Reasoned: Yes/No
Whether Reportable : Yes/No