

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

**CRM-M-3005-2017
Date of decision: 04.04.2019**

Bishamber Dayal

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Sandeep Lather, Advocate
for the petitioner.

Mr. Deepak Grewal, DAG, Haryana.

Mr. Mukesh Yadav, Advocate
for respondent Nos. 2 to 4.

Mr. Piyush Khanna, Advocate for
Mr. Deepak Kundu, Advocate
for respondent No. 5.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition, filed under Section 482 Cr.P.C., is for quashing of the impugned order dated 07.06.2016 (Annexure P-7), passed by the revisional Court/Additional Sessions Judge, Narnaul, vide which, Criminal Revision No. 03/19.01.2013, filed by the petitioner, was dismissed for non-prosecution.

Learned counsel for the petitioner submitted that the case was fixed for 02.05.2016 and on that date, the Presiding Officer was on leave on account of his training from 02.05.2016 to 06.05.2016, therefore, the case was taken up before some other Presiding Officer and was adjourned to 07.06.2016. On the said date, fresh summons were issued against

respondent Nos. 3 and 4 for their appearance on 07.06.2016.

Learned counsel for the petitioner further submitted that on the next date i.e. 07.06.2016, the petitioner was under a bona fide impression that the case would be listed before the same Presiding Officer who has passed the earlier order and was waiting outside the Court, however, the case was taken up before the Court, to which it was originally assigned, and on that account, the petitioner could not appear before the Court and the case was dismissed for non-prosecution.

Learned counsel for the petitioner further submitted that on the date, when the case was fixed before the revisional Court and was dismissed for non-prosecution, no substantive proceedings were to take place as on that date, only service upon respondent Nos. 3 and 4 was to be effected and they were to put appearance before the Court.

Learned counsel for the petitioner further submitted that since the revision has been dismissed on a technical ground on account of non-appearance of the petitioner, his rights will be prejudiced if the same is not restored.

Learned counsel for the private respondents could not dispute the factual position and submitted that the petitioner has intentionally not appeared before the Court on the date fixed.

After hearing learned counsel for the petitioner, I find merit in the present petition considering the fact that the petitioner was pursuing his case regularly before the revisional Court and has shown a bona fide ground for his non-appearance before the revisional Court on 07.06.2016 when it was dismissed for non-prosecution.

Accordingly, this petition is allowed and impugned order dated

07.06.2016 (Annexure P-7) is hereby quashed.

The revisional Court is directed to restore the revision to its original number and stage and decide the same on merits.

The parties are directed to appear before the revisional Court on 07.05.2019.

04.04.2019

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No