

254

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

CRM-M-31012 of 2015(O&M)

Date of Decision: 03.04.2019

Sanjeev Sharma

....Petitioner

Versus

Neena Sharma

....Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr.Gaurav Tyagi, Advocate for
Mr. Ankit Kaushal, Advocate
for the petitioner.

Mr. S.S.Dinarpur, Advocate
for the respondent.

MAHABIR SINGH SINDHU , J.(Oral)

Present petition has been filed under Section 482 Cr.P.C. for setting aside the impugned order dated 19.09.2014 passed by learned Judicial Magistrate Ist Class, Kurukshetra, whereby the respondent has been discharged in a complaint case filed by the petitioner as well as judgment dated 06.08.2015 of learned Additional Sessions Judge, Kurukshetra whereby the revision petition against the aforesaid order has been dismissed for want of prosecution as well as on merits.

Perusal of the paper book reveals that a private complaint was filed by the petitioner against respondent for commission of offences under Sections 420, 323 and 506 of IPC and after recording the preliminary evidence, respondent was summoned by the learned trial Court vide order dated 13.08.2012, but at the stage of consideration of the charges, she has been discharged vide order dated 19.09.2014 by learned JMJC.

Aggrieved against the above order, petitioner filed a revision petition but on account of non-appearance of the petitioner as well as his counsel, the same has been dismissed on merits also while observing that no case for proceeding against the respondent is made out. The order dated 06.08.2015 reads as under:-

“Case file again taken up as the respondent along with her counsel have put their appearance in the Court. Case called several times once again but still neither the revisionist nor his counsel have put their appearance in the Court. Waited sufficiently. It appears that the revisionist is not interested in pursuing with the instant revision petition. Hence, the same is hereby dismissed for want of prosecution. Even otherwise also from perusal of certified copy of impugned order dated 19.09.2014 as well as facts and circumstances of the case, no case for proceedings against the respondent is made out. Accordingly, file be consigned to the room after due compliance.”

A perusal of the order passed by learned Additional Sessions Judge, reveals that on the one hand the revision has been dismissed for want of prosecution, but on the other side dismissed the same on merits as well without assigning any reason while observing that no case for proceeding against the respondent is made out.

Therefore, the approach of the learned revisional Court cannot be countenanced as due application of mind; and the same is legally unsustainable. No doubt, the revisional Court could have dismissed the revision petition on merits in absentia of the revisionist, but there must be same reasons assigned in the order to support the conclusion arrived at while adopting such a course and the same are missing in the present case.

In view of the above, this Court is left with no option except to

quash and set aside the impugned order dated 06.08.2015 passed by the revisional Court and matter is remanded back to the learned Additional Sessions Judge, Kurukshetra to decide the same expeditiously, after hearing both sides, by passing a speaking order.

Disposed off in the above terms.

Since both the parties are present, therefore, they are directed to appear before the learned Additional Sessions Judge on 29.04.2019, and there is no need to inform them separately.

3rd April, 2019
shabha

[MAHABIR SINGH SINDHU]
JUDGE

Whether speaking/reasoned Yes/No

Whether reportable? Yes/No