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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-2916-2019 (O&M)
Date of decision-05.11.2019

Gulab Singh Walia

....Petitioner

Vs.

Ved Parkash and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. G.C.Shahpuri, Advocate for the petitioner.

MANOJ BAJAJ, J.

Petitioner-Gulab Singh Walia (complainant) has filed this revision petition to challenge the Appellate Court order dated 09.10.2019 passed by Sessions Judge, Yamuna Nagar, whereby the appeal filed by him was dismissed for non-prosecution.

Aggrieved against the judgement dated 03.10.2018 passed by Judicial Magistrate First Class, Sub Division Bilaspur whereby accused/respondent No.1 was acquitted in FIR No.200 dated 04.10.2014 registered under Section 304-A IPC, the appeal was filed by Complainant (Petitioner). On 09.10.2019, the case was fixed for arguments, however the counsel for the appellant did not appear, therefore, the Court proceeded to pass the extreme order of dismissal of the appeal for non-prosecution.

Learned counsel for the petitioner (complainant) contends that the appeal against acquittal ought to have been decided on merits, however, the Court completely ignored the conduct of the complainant who has been throughout pursuing his appeal regularly. It is submitted that even an attempt of compromise was made by the parties, however, it did not materialize and the matter was fixed for arguments. He further submits that the counsel who was busy in some other Court, could not put in his appearance at the time when the case was called and the Court instead of giving another opportunity of hearing, proceeded to dismiss the appeal for want of prosecution.

Notice of motion.

At the asking of the Court, Mr. Sukhdeep Parmar, DAG, Haryana accepts notice on behalf of the respondent-State. A complete copy of the paper book has been furnished to the learned State counsel, in the Court.

At this stage, considering the nature of the relief sought by the petitioner, this Court does not find it necessary to issue notice to respondent No.1 as it may cause extra burden upon him to contest this petition. However, it shall be open for him to seek recalling of the order, in case the petitioner has misled the Court.

It is to be borne in mind that many a times the complainant or counsel can be prevented by sufficient reasons on a given date from putting in appearance before the Court and every such absence necessarily cannot be construed as deliberate or wilful.

Considering the above, the impugned order dated 09.10.2019 is set aside and the appeal is restored to its original number, and the Appellate Court shall proceed with the appeal in accordance with law.

Let the parties appear before the Appellate Court on 05.12.2019.

Copy of this order be sent to respondent No.1.

Disposed off.

(MANOJ BAJAJ)
JUDGE

05.11.2019
vanita

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No