

IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH

SANJIV KUMAR SHARMA
2021 Aug 17 12:37
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CRM-M-32333-2021

Date of decision : 13.8.2021

Ravi Dhingra

..... Petitioner (s)

Versus

State of Haryana

..... Respondent (s)

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: Mr. Vineet Sehgal, Advocate
for petitioner.

Mr. Surender Singh, AAG Haryana.

Mr. Naveen Kohar, Advocate
for complainant.

(Through Video Conferencing)

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HARINDER SINGH SIDHU, J.

This petition is filed under Section 482 Cr.P.C. for quashing the order dated 15.7.2021 whereby Crl. Revision No. 334 of 2019 titled as 'Ravi Dhingra Versus State of Haryana' filed by petitioner has been dismissed in default for want of prosecution.

Respondent filed a complaint under Section 190 Cr.P.C. read with Sections 200 and 156 (3) Cr.P.C. before Ld. Additional Chief Judicial Magistrate, Gurgaon seeking direction to register a case against petitioner on the allegations of cheating and fraud. Vide order dated 30.8.2019 Ld. Additional Chief Judicial Magistrate, Gurgaon directed the SHO of concerned police station to register the case and investigate the matter. The petitioner assailed the order of Ld. Additional Chief Judicial Magistrate, Gurgaon by filing criminal revision which has been dismissed in default for want of prosecution by Ld. Additional Sessions Judge, Gurgaon, vide impugned order.

Learned counsel for petitioner has contended that said order is wholly unsustainable. Detailing the facts he has stated that on the filing of criminal revision, vide order dated 4.9.2019, the Ld. Additional Sessions Judge, Gurgaon stayed the implementation of order dated 30.8.2019. Despite the stay FIR No. 961 dated 6.9.2019 under Sections 120 B, 406, 420, 467, 468, 471 IPC was registered against petitioner at Police Station Gurgaon Sadar, District Gurgaon. Petitioner filed CRM-M-48713-2019 before this Court seeking quashing of the FIR and

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subsequent proceedings arising therefrom. Notice was issued in this case. Additionally the Ld. Additional Sessions Judge, Gurgaon was asked to expedite the hearing of the Criminal Revision of the petitioner pending before him.

The revision petition pending before Ld. Additional Sessions Judge, Gurgaon was adjourned from time to time on account of COVID-19 pandemic. It was only on 2.4.2021 that the case was taken up for hearing. On that day the petitioner appeared and pointed out that despite stay order dated 4.9.2019 FIR had been registered against him on 6.9.2019. The Ld. Additional Sessions Judge, Gurgaon directed the concerned Investigating Officer to file status report and adjourned the matter for 9.4.2021. On 9.4.2021, the Investigating Officer filed the status report and the case was adjourned to 12.5.2021. When counsel for petitioner went to attend the Court on 12.5.2021 he was informed that the Ld. Judge was on leave. The counsel mistakenly noted down the next date of hearing as 16.7.2021 instead of 15.7.2021. When the counsel went to attend the Court on 16.7.2021, he was informed that matter had been taken up on the date fixed i.e. 15.7.2021 and dismissed in default for want of prosecution.

Learned counsel for petitioner has argued that petitioner through his counsel had been regularly appearing before the Court. It was only on one date i.e. 15.7.2021 that there was no representation on behalf of petitioner. That was on account of bonafide mistake of the Counsel in noting the wrong date. He argued that this Court in CRM-M-48713-2019 had already directed Ld. Additional Sessions Judge, Gurgaon to expedite the hearing of revision. He contended that in these circumstances, dismissal of revision in default for want of prosecution is wholly unjustified. The petitioner would be severely prejudiced if the revision was not restored and decided on merits.

Notice of motion.

Mr. Surender Singh, AAG Haryana and Mr. Naveen Kohar, Advocate accept notice on behalf of respondent State and complainant respectively.

Considering the facts and circumstances of case as explained above the present petition is allowed. The impugned order dated 15.7.2021 passed by Ld. Additional Sessions Judge, Gurgaon is set aside. The criminal revision is restored

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to its original position. Learned Additional Sessions Judge, Gurgaon is requested to decide the revision expeditiously. This shall however be subject to the petitioner's depositing a sum of Rs. 10000/- (Rs. ten thousand only) in an appropriate account of District Red Cross, Gurgaon to be utilized for benefit of COVID patients.

(HARINDER SINGH SIDHU)
JUDGE

13.8.2021
sjks