

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.**

CRM-M-49172-2021

Date of decision: 24.11.2021

CHANDER PARKASH

.....Petitioner

Versus

STATE OF PUNJAB AND OTHERS

.....Respondents

CORAM: HON'BLE MR. JUSTICE SANT PARKASH

Present : Mr. Chandan Singh Rana, Advocate
for the petitioner.

SANT PARKASH, J. (ORAL)

The case has been taken up for hearing through video conferencing.

Present petition filed under Section 482 of the Code of Criminal Procedure, 1973 (for short 'the Cr.P.C.') is for setting aside impugned order dated 27.02.2019 (Annexure P-3) passed by learned Judicial Magistrate First Class, Ludhiana in case bearing complaint/CRM No. 1261 dated 20.11.2017 titled as 'Chander Parkash Vs. State of Punjab and others', whereby the evidence of the petitioner/complainant was closed by an order and the complaint was dismissed.

Briefly stated, the facts giving rise to the filing of the present petition are that the petitioner moved an application under Section 156 (3) of the Cr.P.C. for registration of the FIR against the accused persons and the said application vide order dated 12.06.2018 was treated as complaint and the petitioner was directed to lead the evidence on the same. Despite granting various dates to lead evidence,

the petitioner failed. On dated 27.02.2019, the application was filed by the petitioner seeking adjournment on the ground that his counsel had gone to the High Court. The learned trial Court did not accede to the request of the petitioner and passed the impugned order dated 27.02.2019 dismissing the complaint of the petitioner in the lack of any evidence adduced.

Feeling aggrieved, the complainant/petitioner has filed the present petition.

Learned Counsel for the petitioner has submitted that the petitioner has been cheated by the private respondents. The petitioner was appearing before the learned trial Court on each and every date of hearing and he is very much interested to pursue his case. Non appearance of the petitioner/complainant and seeking adjournment was never deliberate but for the reason that his counsel on that date was present in a matter before this Court. The impugned order dated 27.02.2019 passed by learned Judicial Magistrate First Class, Ludhiana may be set aside and the petitioner/complainant be granted one opportunity to lead his evidence. In support of his arguments learned Counsel for the petitioner has placed reliance on the observations in **Ramandeep Singh and Another Vs. Punjab State Civil Supplies Corporation Ltd. (SC) : 2020(1) NIJ 220.**

I have heard learned Counsel for the petitioner and perused the relevant record.

In the present case, glancing through the impugned order dated 27.02.2019, it has been revealed that on the day of passing the order, an application seeking adjournment was filed by the petitioner on

the ground that his counsel had gone to the Hon'ble High Court. In the considered view of this Court, the learned trial Court should have considered the request made in the application and would have granted any date for leading the evidence. Heaven would not have fallen, if one more opportunity would have been granted. The impugned order dated 27.02.2019 appears to be little bit harsh and certainly, it has resulted into miscarriage of justice.

In these facts and circumstances, the petition is allowed, impugned order dated 27.02.2019 passed by Judicial Magistrate First Class, Ludhiana is set aside and the petitioner/complainant is granted only one opportunity to appear before the learned trial Court to lead his entire evidence in the complaint CRM No. 1261 dated 20.11.2017 which he wishes to lead failing which the complaint shall stand dismissed.

The complaint stands restored to its original number and the trial Court is directed to proceed further granting only one opportunity to the petitioner/complainant to lead evidence. The petitioner/complainant is directed to appear before the learned trial Court on 14.01.2022.

24.11.2021

kavneet singh

**(SANT PARKASH)
JUDGE**

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No