

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

**CRM-M-9352-2022(O&M)**

Date of decision: 28.10.2022

Satbir Singh

.....Petitioner

versus

Bahadur Singh and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR**

**Present:** Mr. Wazir Singh, Advocate for the petitioner.

Mr. Yashveer Kharb, Advocate for the respondents.

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**NAMIT KUMAR, J. (ORAL)**

**CRM-37757-2022**

Dismissed as not pressed.

**CRM-M-9352-2022**

The petitioner has filed the present petition under Section 482 Cr.P.C. seeking quashing of order dated 15.12.2021 (Annexure P-2) in complaint/CIS No.COMI/67 of 2018 under section 323/341/506/147/148/149 IPC instituted on 03.04.2018 titled as '*Satbir Singh Vs. Bahadur Singh and others*' pending in the Court of Judicial Magistrate First Class, Panipat whereby the criminal complaint filed by the petitioner has been dismissed in default for want of prosecution.

On 07.03.2022, while issuing notice of motion to the respondents, the following contention of the counsel for the petitioner was recorded:-

*“Learned counsel for the petitioner has inter alia drawn attention of the Court to various zimni orders passed by the trial Court to substantiate that the petitioner-complainant had been appearing in the proceedings on all dates and that only on account of the failure of the petitioner to appear on the date fixed, the complaint in question could not be dismissed for want of prosecution.*

*Notice of motion.*

*To come up on 07.04.2022 for further consideration”.*

Learned counsel for the petitioner contends that the petitioner has been appearing in the case regularly and it is only on 15.12.2021 that he could not appear and the complaint has been dismissed in default for want of prosecution. To support his contention, he has referred to various zimni orders which have been reproduced in Paragraph 5 of the petition. He further contends that the reason for his non-appearance on 15.12.2021 is that the clerk of the counsel for the petitioner/complainant noted down the wrong date of hearing and also did not inform the petitioner, therefore, the non appearance of the petitioner on 15.12.2021, is bonafide and unintentional.

Learned counsel for the respondents has opposed the claim of the petitioner for restoration of the complaint and prayed for dismissal of the present petition.

I have heard learned counsel for the parties and perused the records.

A perusal of the records show that complainant-petitioner has been pursuing complaint since 2018 onwards and accused have been summoned under Sections 323, 341, 506, 147, 148 & 149 IPC by the trial Court vide order dated 01.09.2018. On the date i.e. 15.12.2021, when the case was dismissed in default, the counsel for the petitioner-complainant submits that petitioner was not present on account of wrong date noted by the clerk of the counsel concerned and not informed the petitioner as this was happened due to bona fide mistake, not intentional on the part of the petitioner.

In view of the above, the impugned order dated 15.12.2021 (Annexure P-2) passed by the Court of Ld. JMIC, Panipat is hereby set aside and the complaint is ordered to be restored to its original number and the parties are directed to appear before the said Court on 14.11.2022.

The petition is disposed off in above terms.

28.10.2022  
*ps-I*

(NAMIT KUMAR)  
JUDGE

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