

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

CRM-M-13138-2022
Date of Decision:-29.03.2022

RAJWINDER KAUR

... Petitioner

Versus

KARAMJIT SINGH AND ANR

... Respondents

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present:- Mr. Amit Kashyap, Advocate
for the petitioner.

KARAMJIT SINGH, J. (Oral)

The petitioner has filed present petition under Section 482 Cr.P.C. for quashing of order dated 11.3.2022 (Annexure P-7) passed by learned Judicial Magistrate Ist Class, Moga whereby the application filed by the petitioner for restoration of the complaint was dismissed.

Brief facts of the case are that the petitioner filed one criminal complaint titled Rajwinder Kaur vs. Karamjit Singh, however the said complaint was dismissed for want of prosecution by learned Magistrate vide order dated 14.1.2022 (Annexure P-6). The said order reads as follows :-

“Report of the concerned SHO received vide which it has been reported that the dispute between the parties is civil in nature regarding money and no cognizable offence is made out.

Today none has appeared on behalf of applicant-complainant. Case called several times since morning. It is already 4:00 P.M. Further wait is not **justified**. It seems that applicant-complainant is not interested to pursue the matter. As such the case is dismissed in default for want of prosecution. File be consigned to record room.”

Thereafter petitioner filed an application seeking restoration of the complaint but the same was dismissed vide order dated 11.3.2022 (Annexure P-7) by the Court of Judicial Magistrate Ist Class, Moga on the ground that the Court has no power to review the order passed by it.

The counsel for the petitioner states that the absence of the petitioner on the date fixed in the trial Court was not intentional and there was no *mala-fide* on the part of the petitioner. The counsel further contended that previously no such default was ever committed by the petitioner.

Be that as it may and without commenting on the merits of the case, but considering the fact that the complaint was dismissed for want of prosecution by the learned Magistrate vide order dated 14.1.2022 for single default, the interest of justice demands its restoration and decision on merit.

Accordingly, the present petition is allowed and orders dated 14.1.2022 and 11.3.2022 passed by learned Magistrate are set aside. The

complaint is ordered to be restored to its original number and the trial Court shall proceed in the case in accordance with the law. The petitioner is directed to appear before the trial Court within next 30 days.

29.03.2022
Gaurav Sorot

(KARAMJIT SINGH)
JUDGE

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No