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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-22763-2022 (O&M)
Date of Decision:24.05.2022

Prabir Bhattacharyya

.. Petitioner

Vs.

Rajiv Sachdeva and others

..Respondents

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Petitioner in-person.

...

Manoj Bajaj, J. (Oral)

Petitioner has filed this petition to challenge the order dated 02.03.2022 (Annexure P-1) passed by revisional Court, whereby the order dated 30.01.2015 (Annexure P-2) passed by Judicial Magistrate 1st Class, Gurgaon refusing to issue process in complaint case titled as ***Prabir Bhattacharyya Vs. Rajiv Sachdeva and others*** under Sections 193/196/199/200/406 IPC read with Sections 34/109/120-B/511 IPC, was upheld.

The petitioner has argued that against the order dated 30.01.2015 (Annexure P-2), whereby his complaint was dismissed by the Judicial Magistrate 1st Class, Gurgaon, he had preferred a Criminal Revision bearing No.123 of 2017 and has been pursuing the same sincerely by attending each and every date of hearing. In this regard, he has invited the attention of the Court to the various dates of hearings and the proceedings contained at page 17 of the petition. According to him, though various opportunities were granted to the respondents/accused to file response to the

revision petition, however, no reply was filed by them, and on 02.03.2022, the revisional Court proceeded to dismiss the revision petition on merits, in the absence of the petitioner, who failed to appear because of noting a wrong date. Petitioner submits that because of breakout of pandemic COVID-19, the revision petition was not taken up during the said period of restricted Court working, therefore, the impugned order has caused prejudice to the petitioner, as no opportunity of hearing was afforded to him and even replies by the respondents were awaited. He submits that if the respondents were not keen to file the reply, the revisional Court ought to have adjourned the case for arguments. He prays that on this ground alone the impugned order deserves to be set aside.

After hearing the petitioner and considering the above background, this Court does not deem it necessary at this stage to issue notice to the respondents, as this petition is not being decided on merits, but only on consideration of the arguments of the petitioner relating to opportunity of hearing, and further this order would not cause any prejudice to the respondents.

A perusal of the order dated 02.03.2022 shows that the revisional Court has only examined the impugned order dated 30.01.2015 and the grounds of revision filed by the petitioner and proceeded to uphold the order dated 30.01.2015 (Annexure P-2) by reiterating the findings returned by Judicial Magistrate 1st Class. There is no mention in the impugned order dated 02.03.2022 that the record of the case was ever called for or otherwise examined to find out the correctness and validity of the order dated 30.01.2015, therefore, on this short ground, this Court has no hesitation in holding that the order dated 02.03.2022 passed by revisional

Court is bad in law.

Consequently, the petition is allowed, the impugned order dated 02.03.2022 is set aside and it is directed that the revisional Court shall decide the revision petition afresh after hearing the parties, in accordance with law. The petitioner is directed to appear before the revisional Court on 31.05.2022.

The petition is disposed off.

24.05.2022
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No