

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

Sr.No.128

CRM-M No.31105 of 2022

Date of Decision: 20th July, 2022.

Ramesh

...Petitioner

Versus

Smt. Birmati & Others

...Respondents

CORAM: HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present: Mr. Atul Yadav Advocate,
for the petitioner.

MEENAKSHI I. MEHTA, J. (ORAL)

By way of the instant petition, the petitioner herein lays challenge to the order dated 06.05.2022 (Annexure P-3) passed by learned SDJM, Pataudi, District Gurugram, (for short “the trial Court”) whereby the Criminal Complaint Case bearing No.COMI/36/2015, preferred by him against the respondents, under Sections 499/500 IPC, has been dismissed in default as well as for want of prosecution.

2. Bereft of unnecessary details, the facts culminating in the filing of the present petition, are that earlier, respondent No.1 had filed a criminal complaint case against the petitioner, his brother and son as well but vide the judgment dated 18.03.2015 (Annexure P-1), they were acquitted in the said case. Thereafter, the petitioner preferred the afore-mentioned Criminal Complaint Case which has been dismissed vide the impugned order.

3. I have heard learned counsel for the petitioner, at the preliminary stage, in this petition and have also perused the file carefully.

4. Learned counsel for the petitioner contends that due to some unavoidable circumstances, the petitioner could not appear in the Court on 06.05.2022 and his absence on that day was not an intentional one but the trial

Court proceeded to dismiss the said complaint case and in these circumstances, the petitioner be afforded another opportunity to pursue the above-said complaint case further in the trial Court and the impugned order be set aside.

5. However, I do not find the afore-raised contention to be tenable at all because a bare perusal of impugned order Annexure P-3 itself reveals that the petitioner had filed the above-said complaint case against the respondents in the year 2015 and the same has been dismissed by the trial Court on 06.05.2022 with specific observations to the effect that the complainant, i.e the petitioner, had availed several effective opportunities and on that day, neither the evidence was adduced nor the counsel for the complainant nor anyone else on his (complainant's) behalf, had appeared in the Court despite the case having been called several times till 4:30 PM and therefore, the same was dismissed in default as well as for want of prosecution. The petitioner has not been able to come forward with any fair, candid and plausible explanation for not concluding his evidence in the long period of almost seven years, i.e from the year 2015 till 06.05.2022. It being so, he does not deserve any concession, as prayed for by him in the present petition.

6. As a sequel to the fore-going discussion, this Court is of the considered opinion that there is no illegality, infirmity, irregularity or perversity in the impugned order Annexure P-3 as passed by the trial Court, so as to warrant any interference by this Court. Resultantly, the petition in hand, being sans any merit, stands dismissed.

20.07.2022.
seema

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned?	Yes
Whether Reportable?	No