

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. CRM-M-50226 OF 2022

Simranjit SinghPetitioner

versus

Harsimrat Singh Chetra and othersRespondents

2. CRM-M-50261-2022

Simranjit SinghPetitioner

versus

Major Singh and othersRespondents

3. CRM-M-50274 of 2022

Decided on: 31.10.2022

Simranjit SinghPetitioner

versus

Major Singh and othersRespondents

CORAM HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present Petitioner Simranjit Singh in person.

SANDEEP MOUDGIL, J

All the three aforementioned Criminal Misc. Petitions i.e CRM-M-50226 OF 2022 titled Simranjit Singh versus Harsimrat Singh Chetra and others, CRM-M-50261-2022 titled Simranjit Singh versus Major Singh and others and CRM-M-50274-2022 titled Simranjit Singh versus Major Singh

and others have been taken up together involving the identical question on similar set of facts wherein the petitioner in all petitions namely Simranjit Singh has sought quashing of the order dated 22.08.2022 (Annexure P-1) wherein the complaint was ordered to be dismissed for non prosecution by the Judicial Magistrate Ist Class, Jalandhar which reads as under:-

“Today the case was fixed for preliminary evidence for complainant. Complainant has not come present. Case called several times since morning but neither complainant nor any one on his behalf has come present. It is 04:30 pm. It is pertinent to mention here that the complainant has failed to appear. There is no justifiable ground to further adjourn the case for awaiting appearance of the complainant as case is pending for evidence of complainant. Hence, the present complaint is dismissed in default for non appearance of complainant. File be consigned to the Record Room.”

The petitioner-complainant appearing in person today before this Court states that on 22.08.2022, he was appearing in person in CRM-M-36490 of 2022 titled Major Singh versus State of Punjab, wherein he has sought quashing of the order dated 19.07.2022, vide which the bail of the petitioner was cancelled and nonailable warrants were issued for 31.08.2022. Since he was pursuing that petition in person and was appearing before this Court as is also evident from the case file, on perusal of order

dated 22.08.2022, the petitioner has shown sufficient cause for his non appearance before the Judicial Magistrate Ist Class, Jalandhar on that date.

The order dated 19.07.2022, passed in CIS No.CHI-50-2022 titled State of Punjab v. Major Singh etc., is also reproduced hereinbelow, for ready reference:-

“Present: Ld.APP for the State.

Accused absent.

On the last date of hearing, an exemption had been filed on the ground that the accused is unwell and suffering from fever. An application was filed by the prosecution that the bail of the accused may be cancelled he has gone abroad. In view of the application, a direction was given to the accused through counsel to furnish his medical record for today. No medical record has been placed on record. It is pertinent to mention that an application for exemption from personal appearance was filed today also on behalf of the accused by learned defence counsel. However, vide separate statement, the same was withdrawn. It is further pertinent to mention that the ground taken in the application for filed today is that the mother of the accused is suffering from fever and since the accused is attending to her, he is unable to come to the court. It would not be out of place to mention that the last date in the present case was four days ago i.e 15.07.2022. No medical record of the accused as per the last application has been filed today. Since, the exemption which was filed today has been

withdrawn and in view of the averments in the application filed by the prosecution, I deem it fit to cancel the bail of the accused. Let NBW of accused be now issued for 31.08.2022.

(Joshina Sood)

JMIC-II''

Keeping in view the above facts and also keeping in view the submissions made hereinabove and the reasons which were beyond control of the petitioner-complainant for his absence before JMIC, Jalandhar on 22.08.2022, this Court is of the considered view that the dismissal of the complaints in default for non appearance would not be justified.

In case the said order is set aside, no prejudice will be caused to the respondent-accused and thus the complainant rather both the parties will have equal opportunity to present their case for final adjudication in accordance with law.

In view of the above, all the aforementioned Criminal Misc. Petitions are hereby allowed and the order dated 22.08.2022, passed by learned JMIC, Jalandhar, is set aside. Complaints be restored to their original number and the position at which they were dismissed in default.

31.10.2022

mamta

(SANDEEP MOUDGIL)

JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No