

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

249

CRR-1265-2021

Decided on: 23.02.2023

NIRMAL SINGH

...Petitioner(s)

V/S

JASWINDER SINGH AND ANR

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. A.P. Kaushal, Advocate
for the petitioner.

Mr. Karan Dhawan, Advocate
for respondent No. 1.

Mr. Anshul Sharma, Legal Aid Counsel and
Mr. K.K. Saini, Advocate
for respondent No. 2

ANOOP CHITKARA J. (ORAL)

Petitioner has come before this Court u/s 401 Cr.P.C. seeking setting aside of the order dated 11.12.2015 passed by Judicial Magistrate, whereby his complaint was dismissed for non-prosecution and order dated 22.01.2020 whereby the said order affirmed by Appellate Court.

Mr. K.K. Saini, Advocate has put in appearance and filed power of attorney on behalf of respondent No. 2, which is taken on record and seeks permission to assist the legal aid counsel for the respondent. He is permitted to do so.

Counsel for the petitioner submits that his complaint was dismissed due to his non-appearance and reason was that a wrong date of hearing was noted down by the counsel as well as by the petitioner. There was no intention to delay the proceeding.

Without going into this controversy, the non-appearance of the complainant prima facie was not intentional and he would suffer only because of his non-appearance. Even after that, petitioner moved to Appellate Court and to this Court.

On the face of it, it is a case of omission and a bona fide error. I am of the

considered view that petitioner is entitled to grant of opportunity to represent his case again before the trial Court.

Given above, impugned order dated 11.12.2015 is set aside and the present petition is allowed subject to the condition that petitioner shall pay Rs. 5,000/- as costs to each of the accused on the next date of hearing before the trial Court. Parties are directed to appear before the concerned Court on 14.03.2023.

It is clarified that since the matter is old, the trial Court to expedite proceeding.

Legal Aid Authority is directed to pay the necessary fee to the legal aid counsel in accordance with the law.

23.02.2023
lavisha

(ANOOP CHITKARA)
JUDGE

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