

Neutral citation No.:2023:PHHC:066779
IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

250

CRM-M-53373-2022

Date of Decision: 09.05.2023

Surjit Singh

....Petitioner

Versus

Rama Rani and another

....Respondents

CORAM:HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Pawan Attri, Advocate for the petitioner.

Mr. Vaibhav, Legal aid counsel, for respondent No.1.

Ms. Shruti Rathour, Legal aid counsel for respondent No.2.

ANOOP CHITKARA, J.

Petitioner has come up before this Court praying for setting aside the impugned order dated 20.05.2016 passed by the Sub Divisional Judicial Magistrate, Pehowa, vide which the complaint No.24 of 2016 dated 23.02.2015/09.02.2016 filed by the petitioner against respondents u/s 138 & 142 of NI Act, was dismissed for want of prosecution which has the effect of acquittal.

2. Legal aid counsel appearing for respondent No.2 objects to the maintainability of the present petition on the grounds that instead of filing leave to appeal under Section 378(4) CrPC, the complainant came up before this Court under Section 482 CrPC.

3. Although the objection is genuine but on oral request of petitioner's counsel the present petition is treated as a petition under Section 378(4) CrPC.

4. Perusal of the order dated 20.05.2016 passed by the learned SDJM, Pehowa, reveals that the concerned Court should have waited bit longer and sent a message in Bar room. Without commenting on nature of the order, the petition is allowed and the complaint is restored.

5. Given above, the parties are directed to appear before the trial Court on 01.06.2023. It is clarified that the parties can appear through their counsel in

case, they are not able to appear in person. The trial Court may ask for the presence of the accused at any stage of trial. It is further clarified that parties shall not seek any adjournment and in case any of the parties seek any unnecessary adjournment, order of permission to appear through counsel, shall stand recalled without any further reference to this Court. None of the parties claim any prejudice in this regard at any stage of proceedings.

- 6. Petition is allowed in the terms mentioned above. Pending applications, if any, stand disposed of.
- 7. Legal aid counsel shall be entitled for remuneration as per rules.

(ANOOP CHITKARA)
JUDGE

09.05.2023
anju rani

Whether speaking/reasoned	Yes/no
Whether reportable?	Yes/no