

132 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Neutral Citation No. 2023:PHHC:163415
CRM-M-63887-2023
Date of Decision: December 19, 2023

Angrej Singh

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Malkiat S. Hundal, Advocate for the petitioner.

DEEPAK GUPTA, J.(Oral)

By way of present petition filed under Section 482 Cr.P.C., prayer is made to quash the impugned order dated 30.05.2023 (Annexure P-6), passed by learned Addl. Chief Judicial Magistrate, Tarn Taran whereby the complaint of the petitioner bearing No.COMI-49-2020, titled as “*Angrej Singh v. Dewan Singh*”, so as to prosecute respondent No.2 under Section 420 IPC, was dismissed.

2. Learned counsel for the petitioner contends that the case was at the stage of preliminary evidence of the complainant-petitioner. The petitioner had already examined 03 witnesses. The case was adjourned for remaining preliminary evidence. However, on 30.05.2023, petitioner-complainant could not appear due to mis-communication of the date, and the Court dismissed the complaint for a single default.

3. Learned counsel for the petitioner has referred to “*Mohd. Azeem v. A. Venkatesh and Another*”, 2002(7) SCC 726, wherein a complaint under Section 138 of the Negotiable Instruments Act, 1881, was dismissed for absence of the complainant on single occasion, by disbelieving the cause for absence. The acquittal on the part the Trial Court was not held to be justified by the Hon’ble Supreme Court.

4. In the present case also, the dismissal of the complaint appears to have been ordered by the Trial Court, simply on the single default of the complainant, without issuing any notice to the complainant or his counsel and without making any attempt to know the reason for his absence.

5. This petition is hereby disposed of by setting aside the impugned order dated 30.05.2023 (Anenxure P-6) with a direction to the Trial Court concerned to restore the complaint at its original number and proceed further from the stage at which it was fixed prior to passing of impugned order.

December 19, 2023
sarita

(DEEPAK GUPTA)
JUDGE

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