

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-3634-2024
Date of Decision: 23.01.2024
2024: PHHC: 009948

Mohan Tiwari
Vs.
Mukesh Kumar

. . . . Petitioner
. . . . Respondent

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Mr. Amanpreet (A.P) Singh, Legal Aid Counsel,
for the petitioner.

DEEPAK GUPTA, J.

Petitioner is aggrieved by the order dated 20.07.2023 (Annexure P2) passed by Ld. JMIC, Faridabad, whereby complaint bearing No. COMI/617/2017 dated 15.11.2017 (Annexure P1) titled 'Mohan Tiwari Vs. Mukesh Kumar' under Section 323/365/506/511/34 IPC was dismissed in default for want of prosecution.

2. Ld. counsel contends that it is due to wrong impression regarding the date of hearing that he could not appear on 20.07.2023. Earlier he had been appearing regularly; that no prejudice shall be caused to the opposite party and so, in these circumstances the complaint be directed to be restored.

3. Heard.

4. Perusal of the various zimini orders, as placed on record by the petitioner, would reveal that complaint was filed way back on 15.11.2017. The request of the petitioner to send the complaint under Section 156(3) CrPC for registration of the FIR was declined by the Court vide order dated

15.11.2017. Petitioner was asked to produce preliminary evidence. The later orders right from 18.12.2017 to 21.01.2023 would reveal that on most of the dates, complainant-petitioner did not appear in person. So many times, he had to be called by serving notice upon him. On rest of the dates, when the petitioner appeared, no preliminary evidence was produced. Thus, in the last more than 6 years, ever since the time when the complaint was filed, not even a single witness has been examined in the preliminary evidence. So much so, even complainant – petitioner did not appear for his own testimony. It is also noticed that on 21.01.2023, matter was adjourned to 20.07.2023 for preliminary evidence and last opportunity was granted. Despite the same, petitioner failed to turn up on 20.07.2023. Even the counsel representing him did not appear.

5. Having regard to the overall conduct of the petitioner, as noticed above, this Court finds no reason to restore the complaint or to set aside the impugned order.

Dismissed.

23.01.2024

Vivek

(DEEPAK GUPTA)
JUDGE

- 1. Whether speaking/reasoned?
- 2. Whether reportable?

Yes
No