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2024:PHHC:032765

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-13904-2016 (O&M)
DECIDED ON: 06.03.2024

VINOD SONI

.....PETITIONER

VERSUS

VIRENDER SAHARAN AND ANOTHER

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Aditya Sanghi, Advocate
for the petitioner.

Mr. Baljeet Nain, Advocate
for respondent No.1.

Mr. Baljinder Singh Virk, Sr. DAG, Haryana.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court under Section 482 Cr.P.C., has been invoked seeking quashing of order dated 16.03.2016 passed by learned Additional Sessions Judge/Revisional Court, Hissar, vide which the revision petition of the complainant/respondent No.1 against dismissal of complaint for want of prosecution under Section 138 of Negotiable Instruments Act, 1881 by Judicial Magistrate Ist Class, Hissar was accepted.

2. Learned counsel for the petitioner has contended that the respondent-complainant has chosen a wrong forum, as the order dated 06.02.2014 passed by has Judicial Magistrate Ist Class, Hissar has actually culminated into acquittal of the accused in a complaint case and the same could have been assailed by way of filing way of an appeal only and not by way of revision petition.

3. Learned counsel for respondent No.1 has relied upon a judgment rendered by the Apex Court in "Mohd. Azeem vs. A. Vendatesh and Another" 2002 (7) SCC 726, whereby, the dismissal of complaint for absence of complainant on single occasion is held to be bad and on that account acquittal was held to be not justified.

4. Be that as it may, the afore-said case law relied upon by learned counsel for respondent No.1 is of no help wherein, the proposition involved in the instant case is totally distinct, as the petitioner before this Court is aggrieved of an order dated 16.03.2016 passed by learned Additional Sessions Judge, Hissar/Revisional Court entertaining the revision petition against the order of dismissal on account of non-prosecution has culminated into the acquittal of the accused, which could be set aside by way of filing an appeal only.

5. In view of the discussions made hereinabove, the order dated 16.03.2016 (Annexure P-1) is set aside and the case is remanded back to the trial Court and respondent No.1/complainant will be at liberty to take appropriate remedy as per law to assail the order dated 06.02.2014 passed by Judicial Magistrate Ist Class, Hissar.

6. In the afore-said terms, the present petition is disposed off.

7. All the pending miscellaneous applications, if any, stands disposed off.

06.03.2024
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(SANDEEP MOUDGIL)
JUDGE

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