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

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CRM-M-28523-2024(O&M)

Date of Decision:- 04.11.2024

Bhagmal

....Petitioner

Vs.

Ramrati

...Respondent

CORAM:-HON'BLE MRS. JUSTICE AMARJOT BHATTI

Present:- Mr. S.K.Daaria, Advocate for petitioner.

AMARJOT BHATTI, J.**CRM-40641-2024**

This is an application u/s 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 for placing on record interlocutory orders passed by learned trial Court in Complaint No.215 of 2017 dated 15.11.2017 titled as “Bhagmal Vs. Harvinder etc.” as Annexure P-3 to P-25.

For the reasons stated in the application, same is allowed.
Accompanying documents as Annexure P-3 to P-25 are taken on record.

Application is disposed of accordingly.

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1. Petitioner Bhagmal filed this petition under Section 482 Cr.P.C. for quashing of impugned order dated 25.05.2023 passed by learned Judicial Magistrate Ist Class, Sohna, District Gurugram whereby complaint No.215 of 2017 dated 15.11.2017 titled as “Bhagmal Vs. Harvinder etc.” has been

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dismissed for want of prosecution with further prayer that the aforesaid complaint may kindly be restored to its original number for its decision on merits.

2. Learned counsel for petitioner argued that he had filed a complaint under Section 138 of Negotiable Instruments Act on account of dishonour of cheque bearing No.611810 dated 21.09.2017 for Rs.5 lacs and another cheque No.611811 dated 05.08.2017 for Rs.5 lacs out of the account maintained with State Bank of India Branch at Badshahpur. The said cheques were presented and dishonoured and on this account the aforesaid complaint was filed. It is pointed out that after recording pre-summoning evidence accused was ordered to be summoned and thereafter notice of accusation was also served upon him. The case was fixed for cross-examination of the complainant when it was dismissed for want of prosecution vide order dated 25.05.2023 on account of non appearance of present petitioner/complainant. It is pointed out that there was no intentional absence on the part of complainant. There was no effort on the part of learned trial Court to issue notice to the complainant/present petitioner. He was contesting the said complaint since long. It is prayed that impugned order dated 25.05.2023 may kindly be set aside and the complaint may be restored to its original number for its decision on merits.

3. I have heard the arguments. Learned counsel for petitioner has placed on record all relevant documents for proper disposal of the present petition, therefore, no purpose would be served by issuing notice to the respondent.

I have considered the documents and have gone through the record

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carefully. Learned counsel for petitioner has placed on record copy of complaint filed under Section 138 of Negotiable Instruments Act against Harvinder Singh son of Parmal and Ramrati wife of Parmal (Annexure P-1). After recording of pre-summoning evidence, both the accused were ordered to be summoned. It was reported that one of the accused Harvinder Singh expired and the proceedings qua him were dropped whereas notice was issued to accused No.2 i.e. Ramrati vide order dated 06.05.2019 (Annexure P-3). Efforts were made to procure the service of Ramrati by issuing bailable warrants. During this period file was taken up during Covid-19. Copies of zimni orders are annexed as Annexure P-4 to P-9. Again after passing over the said period of Covid-19, proceedings were again initiated and ultimately accused appeared on 10.03.2022 (Annexure P-14) and was released on bail. Notice of accusation was served on 02.03.2023 (Annexure P-23) and thereafter the case was adjourned on 03 dates for cross-examination of complainant and ultimately on account of non-appearance of the complainant on 25.05.2023, the complaint was dismissed by passing impugned order Annexure P-2. Perusal of aforesaid interlocutory orders indicate that much time was consumed in procuring the service of respondent/accused Ramrati and now it was fixed for cross-examination of complainant by the accused. There does not appear any intentional absence on the part of present petitioner. It is always in the interest of justice that the case is decided on merits. The respondent can be compensated by imposing cost. In the light of aforesaid discussion, petition filed by petitioner/complainant is allowed and impugned order dated 25.05.2023 is

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accordingly quashed by restoring the complaint to its original number subject to payment of cost of Rs.5,000/- to be paid to the respondent- Ramrati. Learned trial Court is directed to decide the same on merits as per law.

04.11.2024

Sunil Devi

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No

(AMARJOT BHATTI)

JUDGE