



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

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**CRM-M No.34087 of 2024
Date of decision : 18.7.2024**

Jagat Singh**.....Petitioner****Versus****Dharam Parkash****.....Respondent****CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL**

Present: Mr. Pardeep Panwar, Advocate, for the petitioner

SANDEEP MOUDGIL, J (ORAL)

This is a petition under Section 528 Cr.P.C. for quashing/setting aside of impugned order dated 30.5.2024 (Annexure P-1) passed by Judicial Magistrate Ist Class, Gurugram, whereby complaint filed by the petitioner was dismissed for want of prosecution. It is further prayed that directions be issued to the trial Court for restoration of the criminal complaint no.74289 dated 3.5.2023 filed under Section 138/142 of the Negotiable Instruments Act, 1881 (Annexure P-2) on its original number.

2. Learned counsel for the petitioner would submit that in the complaint bailable warrants were issued on 13.2.2024 against the accused and thereby it was fixed for appearance of the accused on 30.5.2024. In the meantime, on account of marriage in a close relation, the petitioner/complainant could not attend the proceedings of the trial Court and there was communication gap between the petitioner and his counsel representing him in the trial Court, wherein on moving an application for



exemption from personal appearance, complaint came to be dismissed for non-prosecution vide order dated 30.5.2024.

3. Having heard learned counsel for the petitioner and after perusal of the order dated 30.5.2024, it is evident that the trial Court without giving consideration to the fact that it was for the first time that complainant has absented himself in the Court proceedings and particularly when the case was fixed for appearance of the accused/respondent after issuance of bailable warrants has by a summary order, dismissed the matter for non-prosecution probably under the pretext that more than 26 lakhs complaints are pending at various stages in the Courts under Negotiable Instruments Act, 1881, and as such in the next 5 months, 7.5 lakhs cases were instituted which raises the pendency to almost 33.5 lakhs cases.

4. Pendency of complaints in that large number would not mean to cut short the process of law and derail the furtherance of justice by the institution at large, wherein all positive and effective measures are required to be taken by the Courts to adjudicate the matters following procedure as laid down in the statute so that justice is not only done but seen to have been done and that basic principle has been given a cut by the trial Court/JMIC, Gurugram.

5. However, without further going into the veracity of the order in the manner in which impugned order dated 30.5.2024 has been passed, which is at writ large otherwise the only reason which is coming forth is that being under pressure of pendency of large number of cases, this complaint seems to have been dismissed for non-prosecution merely on

the first absence on behalf of the complaint/petitioner, is not sustainable in the eyes of law.

6. Accordingly, the order dated 30.5.2024 is hereby quashed. The trial Court is directed to proceed in the matter after restoring the same to its original position and decide the same after providing due opportunity for leading evidence to the complainant as well as accused, preferably within a period of 6 months from the date of receipt of certified copy of this order.

7. The petition is accordingly allowed.

(SANDEEP MOUDGIL)
JUDGE

18.7.2024
Ashwani

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