

2025:PHHC:050006



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

**CRM-M-17120-2025
DECIDED ON: 28.03.2025**

ASHOK FUEL STATION

.....PETITIONER

VERSUS

M/S SHRI SHYAM TRANSPORT COMPANY.

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Rajesh Arora, Advocate
for the petitioner.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court under Section 582 Cr.P.C. has been invoked seeking quashing of impugned order dated 20.02.2025 (Annexure P-1) passed by learned Judicial Magistrate Ist Class, Gurugram whereby, a complaint under Sections 138 & 142 of Negotiable Instruments Act, 1881 (hereinafter referred to as 'Act') and Sections 420 & 406 IPC filed by the petitioner-complainant stands dismissed for non-prosecution.

2. It has been contended on behalf of learned counsel for the petitioner that the non-appearance of the petitioner before the trial Court is neither intentional nor willful but on account of the fact that he had noted a wrong date i.e. 22.02.2025 instead of 20.02.2025.

3. Heard.

4. The trial Court has dismissed the complaint in the absence of the learned counsel for the complainant while observing that the case called several times since morning and lastly called at 2.30 PM but neither the complainant appeared in person nor any intimation is received on his behalf in the Court. Further it was observed that despite availing two opportunities, counsel for the petitioner-complainant has not furnished the copy of the complaint as well as RC, therefor, notice to the accused could not be issued, which clearly depicts that the petitioner-complainant does not want to pursue with the present complaint.

5. The disturbing feature of the case is that under our present adversary legal system where the parties generally appear through their advocates, the obligation of the parties is to select his advocate, brief him, pay the fees demanded by him and then trust the learned advocate to do the rest of the things. The party may be a villager or may belong to a rural area and may have no knowledge of the court's procedure. After engaging a lawyer, the party may remain supremely confident that the lawyer will look after his interest. At the time of the hearing of petition, the personal appearance of the party is not only not required but hardly useful. Therefore, the party having done everything in his power to effectively participate in the proceedings can rest assured that he has neither to go to the Court to inquire as to what is happening in the Court with regard to his case nor is he to act as a watchdog of the advocate that the latter appears in the matter when it is listed. It is no part of his job. What is the fault of the party who having done everything in his power and expected of him would suffer because of the default of his advocate. The problem that agitates is whether it is proper that the party should suffer for the inaction, deliberate omission, or misdemeanour of his agent. The answer obviously is in the negative.

6. In view of the foregoing, discussion and without commenting upon the merits of the case and in the larger interest of public, the present petition is disposed off. The impugned order dated 20.02.2025 (Annexures P-1) is set aside and the case is remanded back to the trial Court for adjudicating it afresh on merits as per law.

8. Ordered accordingly.

(SANDEEP MOUDGIL)
JUDGE

28.03.2025
Sham

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>