



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

CRM-M-65295-2024
Date of decision: 07.01.2025

Jindal Trading Co.

...Petitioner

Versus

M/s Shri Balaji Sanitation and another

...Respondents

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Mayank Mahla, Advocate for the petitioner.

KARAMJIT SINGH, J. (ORAL)

1. The present petition has been filed by the petitioner under Section 528 of BNSS seeking quashing of order dated 11.11.2024 Annexure P-3 passed by the Court of Judicial Magistrate Ist Class, Gurugram in NACT No.4858/2024 whereby the complaint titled Jindal Trading Company Vs. Shri Balaji Sanitation, under Section 138 of NI Act, was dismissed in default for want of prosecution

2. It has been submitted by counsel for the petitioner that petitioner filed the aforesaid complaint under Section 138 NI Act against respondents No.1 and 2, wherein the learned trial Court passed summoning order Annexure P-1 dated 13.03.2024 against the respondents. On the next date of hearing, no one put in appearance on behalf of the respondents. In the meantime, the complaint was transferred to some other Court without any notice to the petitioner and as such, the petitioner was unable to appear before the Court concerned on 11.11.2024. Resultantly, the criminal complaint was dismissed in default for want of prosecution by the Court concerned vide order Annexure P-3. The counsel for the petitioner further submits that the absence of the petitioner before the Court concerned on 11.11.2024 was not intentional. That even otherwise, presence of the petitioner was not required on the said date, as the respondents failed to



appear in the Court concerned till that date in response summoning order Annexure P-1. The counsel for the petitioner further submits that the impugned order is not sustainable and be set aside and the criminal complaint should be restored.

3. After hearing the counsel for the petitioner and going through the facts and circumstances of the case, this Court is of the view that as the complaint was fixed for procuring presence of respondents, the presence of the petitioner was not required at all before the Court concerned on that date. Further, it appears that the criminal complaint filed by the petitioner was transferred to some other Court without any intimation to the petitioner. Thus, the absence of petitioner and his counsel on the relevant date was totally un-intentional. It is settled law that the Court of Magistrate has got no power to review its own order.

4. In light of the above, the present petition is allowed and order dated 11.11.2024 Annexure P-3 is set aside. Criminal complaint having NACT-4858-2024 titled Jindal Trading Company Vs. Shri Balajit Sanitation and another is ordered to be restored to its original number. The petitioner is to appear before the trial Court within next 20 days from today and on his appearance, the trial Court is directed to start the proceedings from the stage, when it was dismissed in default and to proceed ahead in accordance with law.

5. Keeping in view the nature of order being passed, no notice is required to be issued to the respondents. However, if they feel dis-satisfied with this order, they may move an application to recall the same.

6. However, it is made clear that any observation made herein above is not to be construed as an expression of opinion on the merits of the case.

07.01.2025

Yogesh

(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned:-
Whether reportable:-

Yes/No
Yes/No