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(2007) 04 P&H CK 0137

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Miscellaneous No. 46247-M of 2005

Ram Chander APPELLANT

Vs

Hari Singh and Others RESPONDENT

Date of Decision: April 17, 2007

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 482

Hon'ble Judges: Ranjit Singh, J

Bench: Single Bench

Advocate: Sandeep Kotla, for the Appellant; Navneet Chhokhar, for the Respondent

Final Decision: Dismissed

Judgement

Ranjit Singh, J.

This petition has been filed u/s 482 Cr.P.C. for quashing of the order dated 14.10.2004 passed by Judicial Magistrate 1st Class, Gurgaon and that by the Sessions Judge, Gurgaon, whereby the complaint filed by the petitioner was dismissed and so also the revision against the said order. The Magistrate, while dismissing the complaint, had observed that none from the complainant side had appeared to give evidence and accordingly it was noticed that there is not even an iota of evidence on the case file against the accused persons. None had also appeared on behalf of the complainant at the time of hearing. Accordingly, the compliant was dismissed for non-prosecution as well as by observing that no evidence has come on record against the accused persons. The revision against the said order was also dismissed. Even the revisional Court noticed that no p.e. charge evidence is directed to have been presented on 11.01.2003, 04.08.2004 and l4.10.2004.The action of the petitioner, furnishing a medical certificate was found to be meaningless as it was required to be produced before the trial Court and not before the Revisional Court. Finding no merit in the revision, it was accordingly dismissed.

2. Learned Counsel for the petitioner by referring to the case of Bandarupalli Eswara Reddy v. Thonatiadhi Reddy, 2004 (4) CCC 255 (A.P.) : 2004 (1) RCR (Cri.) 258 (A.P.) submits that the Magistrate could have dismiss the complaint in default but could not have passed the order of discharge as then certain consequences follows, which amount to giving a clean chit to the accused. However, facts of this case would not be attracted in the present case. In this case, the complaint has not only been dismissed in default but also on merits. It is not a case where only the complaint has been dismissed on account of non-presence of the complainant. In this case, the Courts had found that no evidence was led at pre-charge stage in support of the complaint and accordingly it was dismissed. No exception to the discharge in this case can, thus, be taken. The counsel otherwise could not satisfy as to how a petition u/s 482 Cr.P.C. is maintainable in this case. No case for interference, as such, is made out.