



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

**124**

**CRM-M-63840-2024 (O&M)  
Date of Decision:- 04.04.2025**

**RANJIT SINGH & ANOTHER**

...Petitioner(s)

Versus

**STATE OF PUNJAB**

...Respondent(s)

**CORAM: HON'BLE MR. JUSTICE SANJIV BERRY**

Present : Mr. Atul Aggarwal, Advocate for the petitioner.

Mr. Rajinder Singh Batha, DAG, Punjab.

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**SANJIV BERRY, J. (ORAL)**

**CRM-14188-2025**

The instant petition under Section 528 BNSS, 2023 is for placing on record diary entries dated 28.10.2024, 29.11.2024 and 30.11.2024 as Annexure P-7 to P-9.

Application is allowed, subject to all just exceptions. Annexure P-7 to P9 are taken on record. Registry to tag the same at appropriate place.

**Main case**

1. The present petition filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita (BNSS) 2023 has been preferred by the petitioner seeking quashing of the order dated 29.11.2024 (Annexure P-6) passed by



learned Additional Sessions Judge, Gurdaspur whereby the Criminal Revision Petition bearing CRM-568-2024 titled as '*Ranjit Singh and another vs. State of Punjab*' (Annexure P-4), against the order dated 12.03.2024 (Annexure P-3) passed by learned Judicial Magistrate First Class, Gurdaspur had been dismissed in default.

2. Brief facts of the case are that a complaint No. 3206 dated 01.10.2016 was lodged by Surinder Singh against, Sandeep Singh, Rajwinder Kaur, Ranjit Singh, Balwinder Kaur for taking legal action against them for committing fraud of ₹12,00,000/- for sending him abroad on Study Visa to Australia/New Zealand and after inquiry vide report dated 17.12.2018 (Annexure P-2) declared Ranjit Singh, Balwinder Kaur and Rajwinder Kaur as innocent. Thereafter the complainant filed an application under Section 319 Cr.P.C for summoning of the petitioners to face the trial and vide order dated 12.03.2024 (Annexure P-3) petitioners were summoned to face trial proceedings under Section 420 IPC. Aggrieved petitioner had preferred revision petition (Annexure P-4) before learned Additional Sessions Judge, Gurdaspur and vide order dated 29.11.2024 (Annexure P-6) the same was dismissed in default on account of the absence of the counsel for the petitioner. Hence the present petition.

3. Learned counsel for the petitioner *inter alia* contends that the learned counsel representing the petitioner in learned trial Court has inadvertently noted the next date as 30.11.2024 whereas it was 29.11.2024 due to which he could not appear and the revision petition of the petitioner was dismissed as default vide impugned order dated 29.11.2024 (Annexure



P-6). He contends that the absence was unintentional, otherwise also the case was fixed for filing reply on behalf of respondent which despite several opportunities was not filed by the respondents. He contends that it is settled law that case should be decided on merit even in the absence of the parties/counsel and should not be dismissed in default. In support of his contentions he had referred to the orders of Hon'ble Apex Court passed in ***Criminal Appeal No. 2421 of 2023, arising out of SLP (Crl) No. 5298 of 2023, decided on 11.08.2023; titled as Taj Mohammad Vs. State of U.P. and another.*** Hence prayed for restoration of the revision petition by setting aside of the impugned order dated 29.11.2024 (Annexure P-6) and to hear and decide on merit.

4. Notice of motion.

5. On the asking of the Court Mr. Ankit Grewal, DAG, Punjab accepts notice on behalf of respondent-State and has opposed the present petition by stating that the impugned order has been rightly passed.

6. After hearing the respective submissions and perusing the record, it transpires that so far as the factual position is concerned there is no dispute qua the fact that against the impugned order (Annexure P-3) dated 12.03.2024 passed by learned Judicial Magistrate First Class, Gurdaspur, the petitioners had preferred revision petition vide (Annexue P-4) titled as Ranjit Singh and another vs. State of Punjab, for setting of the aforesaid order dated 12.03.2024 (Annexure P-3). It is evident from the perusal of the order dated 25.07.2024 (Annexue P-5) passed by Additional Sessions Judge, Gurdaspur that this revision petition



accompanied with an application under Section 5 of the Limitation Act was received in the Court and after registering the same notice to State was given for 21.08.2024. It transpires from the perusal of the intervening zimney orders passed by learned Additional Sessions Judge, Gurdaspur thereafter that the case remained adjourned from 21.08.2024 to 12.09.2024, and then to 23.09.2024 to 28.10.2024 for filing the reply by the State on the application under Section 5 of the Limitation Act. From 28.10.2024 the case was adjourned for filing such reply by the State to 29.11.2024.

7. On 29.11.2024 the learned Additional Sessions Judge, Gurdaspur passed the impugned order (Annexure P-6) dismissing in default the petition on account of non presence of the applicant, despite the fact that the case was fixed for filing reply by the State. The impugned order dated 29.11.2024 passed by learned Additional Sessions Judge, Gurdaspur reads as under:-

*“Case called several time since morning but none appeared on behalf of the applicant. It is already 04:15 PM. This Court is satisfied that the applicant is not interested to proceed with the present case. Hence, the present case is hereby dismissed in default. File be consigned to Record Room, Gurdaspur.”*

8. It is *inter alia* the contention of learned counsel for the petitioner that the date of the case was noted in the diary of the counsel for applicant as 30.11.2024 and not 29.11.2024 and on account of this, none has put in appearance on behalf of he petitioners before the learned Court on



29.11.2024 and as such, the absence was not intentional. In this regard he has referred to the copies of lawyers diary (Annexure P-7, P-8 and P-9) which reflect the case of petitioner being adjourned from 28.10.2024 to 30.11.2024.

9. Thus, from the perusal of the aforesaid copies of the lawyers diary maintained by the lawyer representing the applicant, it is evident that the counsel had noted the date from 28.10.2024 to 30.11.2024 in the said diary, therefore, in these circumstances there is no hesitation to agree with the contention of the learned counsel for the petitioner that since he had noted the date as 30.11.2024 so there was no intentional error on the part of the counsel or the petitioner in not appearing before the learned Additional Sessions Judge, Gurdaspur on 29.11.2024 as they had inadvertently noted the date as 30.11.2024.

10. This apart, it is worth mentioning here that it has been settled preposition of law laid by the Hon'ble Supreme Court in ***Taj Mohammad's case (supra)*** that the criminal revision petition needs to be considered on merits even in the absence of the their counsel. This preposition laid down by Hon'ble Apex Court remains uncontroverted and on the basis thereof it was incumbent upon the learned Additional Sessions Judge, Gurdaspur to have proceeded to consider the revision petition filed by the petitioner on merits of the case rather than dismissing it on account of the absence of the petitioner or his counsel on a particular date.

11. Therefore, in the light of the above discussion and keeping in view the preposition of law in ***Taj Mohammad's case (supra)*** and also



considering the fact that the absence of the petitioner or his counsel on 29.11.2024 before the learned Additional Sessions Judge Gurdaspur was not intentional, therefore, the impugned order dated 29.11.2024 (Annexure P-6) is hereby set-aside by allowing the present petition. The Revision petition bearing No. CRM-568-2024 titled as '*Ranjit Singh and another vs. State of Punjab*' is ordered to be restored to its original number and position. The learned Court is directed to consider the same on the merits of the case by giving ample opportunity of being heard and also giving specific notice regarding the date fixed after restoration of the case to the parties concerned in accordance with law.

12. Any observation made above shall not be construed as opinion of this Court on the merits of the case.

**(SANJIV BERRY)**  
**JUDGE**

**04.04.2025**

*GYAN*

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| i)  | Whether speaking/reasoned? | Yes |
| ii) | Whether reportable?        | Yes |