



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

**CRM-M-2441-2025
DECIDED ON: 17.01.2025**

HARISH **.....PETITIONER**

VERSUS

NAVEEN PHOGAT **.....RESPONDENT**

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH.

Present: Mr. Vishal Sharda, Advocate,
for the petitioner.

SANJAY VASHISTH, J (ORAL)

1. Present petition has been filed by the petitioner for setting aside the order dated 22.02.2024 (Annexure P-4), passed in criminal appeal No.CRA-66-2018 by learned Additional Sessions Judge, Jhajjar, whereby the application under Section 391 Cr.P.C. read with Sections 311 and 91 Cr.P.C. was dismissed for want of prosecution.

2. Counsel for the petitioner contends that the impugned order herein is dated 22.02.2024, whereby the application filed by the petitioner under Section 391 Cr.P.C. read with Sections 311 and 91 Cr.P.C., during the pendency of appeal, has been dismissed, on account of non-appearance of the applicant/accused.

3. While referring to the another order dated 22.02.2024 (Annexure P-5), counsel for the petitioner submits that since, the appellant (petitioner herein) was present, and on the request made by him, proceedings were adjourned for 03.06.2024.

4. Thus, counsel for the petitioner submits that there appears to be some mistake in the other order dated 22.02.2024 (Annexure P-4), whereby the application under Section 391 Cr.P.C. read with Sections 311 and 91 Cr.P.C., has been dismissed for want of prosecution.

5. For adjudication of the short issue involved in the present petition, this Court does not find any substantial reason to call for response of the respondents.

6. Order dated 22.02.2024 (Annexure P-4) passed by learned Additional Sessions Judge, Jhajjar, while dealing with the application under Section 391 Cr.P.C. read with Sections 311 and 91 Cr.P.C., says as under:-

“Present: None for applicant-accused.

Application called several times but none has responded on behalf of applicant-accused. It is already 03:30 PM. Further wait is not justified.

Consequently, the present application under Section 391 Cr.P.C. read with Section 311 and 91 Cr.P.C. stands dismissed for want of prosecution. File be consigned to the records, after due compliance.”

7. Another order dated 22.02.2024 (Annexure P-5) dealing with the proceedings of the appeal, says as under:-

“Present: Appellant Harish in person with Sh. Sumit Kharab, Advocate. Sh. J.S. Chauhan, Advocate for respondent.

Arguments not addressed. Learned counsels for both the parties have requested for an adjournment.

Heard. In view of request, the case stands adjourned to 03.06.2024 for arguments.”

8. Since, at one place, petitioner is marked present along with his counsel, and in the another proceeding i.e. dealing with the application, he is shown to be absent, it is clear that there is apparently some mistake, and therefore, the same is required to be rectified.

9. Accordingly, order dated 22.02.2024 (Annexure P-4) is hereby set aside, whereby the applications filed under Section 391 Cr.P.C. read with Sections 311 and 91 Cr.P.C., was dismissed for want of prosecution.

10. Therefore, trial Court is directed to decide the said application on merits, in accordance with law, by giving due opportunity to the parties, before taking up the appellate proceedings.

11. With the terms recorded here above, present petition stands disposed of.

**(SANJAY VASHISTH)
JUDGE**

17.01.2025
Lavisha

Whether speaking/reasoned *Yes/No*
Whether reportable *Yes/No*