

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-A-981-MA of 2014 (O&M)

Date of Decision:-27.08.2015

Lalit Kumar

...Appellant

Versus

Jeet Singh Randhawa & Ors.

...Respondents

CORAM: HON'BLE MR.JUSTICE SHEKHER DHAWAN

Present:- Mr.Bikram Arora, Advocate,
for the appellant.

SHEKHER DHAWAN, J. (Oral)

CRM-18873 of 2014

Prayer has been made in the application for condonation of delay of 900 days in filing the appeal.

Grounds taken in the application that judgment dated 20.09.2011 was passed by Judicial Magistrate First Class, Amritsar whereby accused No.1 was acquitted of offence under Section 138 of Negotiable Instruments Act. Thereafter judgment dated 03.09.2013 was passed by Additional Sessions Judge, Amritsar whereby appeal filed by appellant was dismissed being not maintainable. Thereafter revision petition was filed on 21.12.2013 and same was returned by the Registry on 28.03.2014 whereas in view of Hon'ble Full Bench of this Court in case titled as **M/s Tata Steel Ltd. Vs. M/s Atma Tube Products Ltd. (F.B.) 2013 P&H RCR (Criminal) 1005** that complainant who is a victim shall have remedy of appeal against acquittal under Section 378(4) only. In that way delay in

filing the appeal under Section 378(4) occurred and delay of 900 days be condoned. The application is supported by affidavit.

Arguments heard. In view of the grounds taken in the application that applicant was appearing under a mistaken notion and in view of judgment of Hon'ble Full Bench of this Court, present appeal under Section 378(4) is maintainable and in the interest of justice delay of 900 days in filing the appeal stands condoned.

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Appellant had challenged the judgment of acquittal passed by Judicial Magistrate First Class, Amritsar on 12.10.2011 and order passed by Additional Sessions Judge, Amritsar dated 03.09.2013 whereby appeal filed by complainant was dismissed primarily on the ground that as per Hon'ble Full Bench of this Court in case M/s Tata Steel Ltd. Vs. M/s Atma Tube Products Ltd (Supra) appeal was not maintainable and same was dismissed.

Learned counsel for appellant mainly took the plea that cheque bearing No.156035 dated 10.12.2005 was issued for ₹1,20,000/- with the assurance that the same would be encashed on presentation. But same was dishonoured as 'account was closed'. Legal notice was issued but still payment was not made and thereafter complaint was filed. However, learned trial Judge failed to appreciate the evidence available on file and dismissed the complaint and the present appeal be accepted.

I have heard learned counsel for the appellant and perused the record carefully. It is evident on the record that complaint was filed on 22.07.2006. Summoning order was passed by Magistrate on the basis of preliminary evidence. Notice of accusation was served upon accused on

06.10.2010 but at the stage of evidence complainant failed to lead any evidence despite availing several adjournments including last opportunities and as such evidence of the complainant was closed by Court order. Statement of accused to be recorded under Section 313 Cr.P.C. was dispensed with as there was no evidence against the accused.

As was the material before the Court, there was no option with the Magistrate except to dismiss the complaint for want of evidence.

In view of the above, present appeal is absolutely without any merit and the same is dismissed.

August 27, 2015
msd

(SHEKHER DHAWAN)
JUDGE