

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-42734 of 2014 (O&M)
Date of Decision:30.6.2015

Maninder Singh

....Petitioner

Versus

Raman Kumar and another

....Respondents

CORAM: HON'BLE MS. JUSTICE NAVITA SINGH

Present: Mr. P.S. Ahluwalia, Advocate for the petitioner.

Mr. B.S. Bhullar, AAG, Punjab for respondent No.1.

NAVITA SINGH, J.

1. The present petition is filed for setting aside the order dated 17.10.2014 passed by Additional Sessions Judge, Hoshiarpur, whereby the revision petition filed by the petitioner was dismissed on the ground of limitation.
2. Notice was issued to the complainant, i.e. present respondent No.1, who did not appear despite service.
3. The only point to be seen in the matter would be whether the time for filing the revision petition was to run from the date of passing of the order challenged in revision i.e. the order passed by the Judicial Magistrate 1st Class, Mukerian on 20.5.2014 or would run from the date of acquisition of knowledge by the petitioner regarding the order.
4. Counsel for the petitioner, in view of the observation made in the order passed on the last date, produced certified copies of zimini orders showing that the order of summoning the petitioner was passed on 20.5.2014 and the next date was 31.5.2014. On that date, the matter was again fixed for 11.7.2014 for notice to the present petitioner. He was not

served on 11.7.2014 and notice was ordered to be issued for 13.8.2014, on which date he appeared and was admitted to bail. He applied for the certified copy and after obtaining the same filed revision petition on 4.10.2014.

5. In any case the accused i.e. the petitioner herein was not served till 13.8.2014 and he appeared on the said date.

6. Counsel for the petitioner relied on the judgment of the Supreme Court reported as Madan Lal Vs. State of U.P. and others 1975 AIR (SC) 2085 where it was held that the starting point of limitation for filing an appeal would be the date of knowledge of the order passed in the absence of the appellant and the words 'date of order' should be construed accordingly. Similar was the view taken by the Supreme Court in Raja Harish Chandra Raj Singh Vs. The Deputy Land Acquisition Officer and another 1961 AIR (SC) 1500.

7. Since the petitioner was having no knowledge of the order passed against him on 20.5.2014 till shortly before he appeared in the court, it can be said that the revision petition filed by him was within limitation. This view finds support from the judgments of the Supreme Court mentioned above.

8. Since the matter related to a private complaint, the State counsel had no role to play and did not offer any argument. Rather the State was not even a necessary party.

9. The revision petition is allowed and the impugned order (Annexure P5) is set aside with direction to the court of revision to decide the revision petition on merits, treating it to have been filed within limitation.

10. Petitioner to appear either personally or through counsel before the court of revision on 23.7.2015.

11. Though this may not be relevant for adjudicating upon the present matter, yet an observation is being made that the trial court i.e. Judicial Magistrate 1st Class, Mukerian, vide her order dated 20.5.2014 ordered notice to be issued to the accused for 31.5.2014 with allowance to the complainant to file the process fee and copy of the complaint within seven days. If the complainant was to file the process fee etc. by 27.5.2014, how it was expected by the court that notice could be served by 31.5.2014, is un-understandable.

12. Copy of this order be sent to Ms. Baljinder Kaur, the then Judicial Magistrate 1st Class, Mukerian at her present place of posting.

(NAVITA SINGH)
JUDGE

30.6.2015
ishwar