

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR No.1084 of 2014 (O&M)

Date of Decision: 30.03.2015

Sukhwinder Kaur

.....Petitioner

Vs.

State of Punjab and Others

.....Respondents

CORAM: HON'BLE MR. JUSTICE R.P. NAGRATH

1. *Whether Reporters of the local papers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the digest?*

Present:- Mr.Deepak Aggarwal, Advocate for
Mr.Veneet Sharma, Advocate for the petitioner.

Mr.Gazi Mohammad, DAG Punjab.

Mr.Munish Raj, Advocate for the respondents No.2 to 8.

R.P. NAGRATH, J. (ORAL)

Complainant filed appeal No.18454/33489/24104 of 2013 in the Court of Sessions Judge, Amritsar, against the judgment of acquittal passed by the learned trial Court for the offences under Sections 452/354/447/380/506/148/149/323 IPC in FIR No.67/06 dated 01.07.2006, registered at Police Station Islamabad, Amritsar.

The appeal was admitted for hearing by the appellate Court which was dismissed in default on 05.02.2014 by the learned Sessions Judge, Amritsar as no one appeared on behalf of the appellant despite the case being called repeatedly.

I have heard learned counsel for the appellant and learned

counsel for respondents No.2 to 8 and perused the paper book.

The law is quite well settled that criminal appeal cannot be dismissed simply for non-prosecution. The learned counsel for the petitioner relies upon **Bani Singh and Others Vs. State of U.P., AIR 1996 Supreme Court 2439 (1)**. In that case the that appeal was filed by the accused persons who were convicted and Hon'ble Supreme Court held that if on the appointed day for hearing appellant and their counsel do not appear, the Court is not bound to adjourn the case but should dispose of the case. On the same analogy and applying the ratio of the judgment in **Bani Singh's case (supra)** the appeal filed by the victim in terms of proviso to Rule 372 of the Code of Criminal Procedure could not have been dismissed for non-prosecution and should be decided on merits.

In view of the above, the instant revision petition is allowed and order dated 05.02.2014 passed in Crl.Appeal No.18454/33489/24104 of 2013 is set aside with a direction to the appellate Court to restore the appeal to its original number and decide the same on merits in accordance with law. Both the parties are directed to appear before the appellate Court on 24.04.2015. Copy of this order be sent by fax also.

(R.P.NAGRATH)
JUDGE

30.03.2015
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