

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

CRR No.2929 of 2015

Date of decision: 13.10.2015

Ranjita Sharda

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. S. S.Salar, Advocate for the petitioner (s)

Mr. Luvinder Sofat, AAG, Punjab

Jitendra Chauhan, J. (Oral)

Present criminal revision is directed against the judgment of conviction and the order of sentence dated 07.11.2013, passed by the trial Court, whereby the petitioner was convicted and sentenced to undergo RI for 03 years with fine of Rs.10,000/- under Section 420 of the IPC in default of which to further undergo RI for 3 months and judgment dated 02.07.2015 passed by the lower appellate Court, whereby her appeal was dismissed for non-prosecution.

The facts in brief are that complainants made allegations against the petitioner that she had duped them by receiving amounts for sending them and their relatives to foreign countries and also took their passports. The said amounts were deposited in the bank account of the

petitioner, however, she never sent them and their relatives abroad nor had returned the said amounts and their passports. Thereafter, the complainants filed a case against the petitioner and after considering the entire facts and circumstances, the learned trial Court vide judgment dated 07.11.2013 convicted and sentenced her to undergo 03 years RI under Section 420 IPC with fine of Rs.10,000/- in default of which to further undergo RI for 3 months.

Feeling aggrieved against the same, the petitioner approached the lower appellate Court and the case was fixed for 02.07.2015. Thereafter, she suffered from chickenpox and confined her room only. As she believed in a Vaid, she had approached the Vaid on 27.06.2015 and not approached any doctor. Therefore, the petitioner could not approach the lower appellate Court on 02.07.2015 and the lower appellate Court proceeded to dismiss the appeal for non-prosecution without going into the merits of the case by relying upon a judgment of Hon'ble Supreme Court rendered in **Surya Baksh Singh Vs. State of Uttar Pradesh (2014) 14 SCC 222.**

Learned counsel for the petitioner submits that while passing the impugned order, the lower appellate Court did not hear the counsel for the petitioner nor appointed any amicus curiae to assist the Court on behalf of the petitioner and without appreciating the entire facts and circumstances of the case. Before passing the impugned order, the lower appellate Court should have issued warrants/summons to the petitioner. As the trial Court has erroneously convicted the petitioner, the lower appellate Court should have decided the case on merits.

On the other hand, the learned State counsel submits that

he has no objection if the matter is remanded back to the lower appellate Court to decide the case on merits afresh.

Heard.

Keeping in view the fact that the lower appellate Court dismissed the appeal for non-prosecution without considering the entire facts and circumstances of the case and without issuing any warrants/summons to the petitioner; and the fact that the petitioner could not put in appearance before the lower appellate Court due to the ailment, this Court feels that ends of justice would be met by affording an opportunity to the petitioner to appear before the lower appellate Court to put forth her case efficiently.

Accordingly, the revision petition is disposed of with a direction to the petitioner to appear before the lower appellate Court within three weeks from receipt of a certified copy of this order and the lower appellate Court is directed to decide the case afresh on merits by affording an opportunity to the petitioner for hearing, subject to payment of Rs.20,000/- as costs.

(JITENDRA CHAUHAN)
JUDGE

13.10.2015
ashok