

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

CRR-3329-2015 (O&M)

Date of decision : 28.09.2015

Som Pal

...Petitioner

Versus

Suresh Pal

...Respondent

CORAM : HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. R.S. Budhwar, Advocate,
for the petitioner.

Mr. Robin Dutt, Advocate,
for the respondent.

JITENDRA CHAUHAN, J.

CRM-29137-2015

Despite opportunity, no reply has been filed to the application for condonation of delay.

For the reasons stated in the application, the same is allowed and the delay of 143 days in filing the present petition is hereby condoned.

CRR-3329-2015 (O&M)

The present revision petition has been filed by the petitioner impugning the order dated 14.01.2015, passed by the

learned Additional Sessions Judge, Yamuna Nagar at Jagadhri, (for short, 'the Appellate Court') whereby, the appeal preferred by the petitioner against the judgment of conviction and order of sentence dated 27/29.01.2014, passed by the learned Judicial Magistrate I Class, Jagadhri, (for short, 'the trial Court'), has been dismissed for non-prosecution. The petitioner stands convicted under Section 138 of the Negotiable Instruments Act and sentenced to undergo rigorous imprisonment for a period of 01 year and to pay an amount of Rs.2,25,000/-, as compensation to the complainant and in default thereof, to further undergo rigorous imprisonment for a period of 03 months.

The learned counsel for the petitioner contends that against the impugned judgment of conviction and order of sentence passed by the learned trial Court, the petitioner preferred an appeal before the learned Appellate Court, which came up for hearing on 14.01.2015. The petitioner did not cause representation on 14.01.2015, though, an application seeking exemption from personal appearance was moved but the same was not considered by the learned Appellate Court and the appeal of the petitioner was dismissed for non-prosecution. The petitioner had moved the application for exemption along with the medical certificate of the competent authority.

On the other hand, the learned counsel for the respondent states that the petitioner repeatedly absented himself

from the process of the Court. The application so filed by the petitioner for exemption from personal appearance was without medical certificate.

I have heard learned counsel for the parties.

Without going into the merits of the present case, keeping in view the fact that the petitioner comes from the lower strata of the society, deserves a fair trial by the Appellate Court.

In the circumstances, the impugned order dated 14.01.2015, passed by the Appellate Court, whereby, the appeal of the petitioner was dismissed for non-prosecution, is quashed and the case is remanded back to the Appellate Court. The learned Appellate Court is directed to pass a fresh order on merits, after affording an opportunity of hearing to the parties to the lis. However, the same shall be subject to the payment of Rs.15,000/- as costs, to be paid to the respondent which shall be a condition precedent. The parties shall appear before learned appellate Court, through their counsel, on 15.10.2015.

Allowed.

CRM-29138-2015

As the petitioner was on bail prior to passing of the impugned order dated 14.01.2015 and surrendered in view of the said order, which has been quashed by this Court, the present application is allowed and the sentence of the applicant/petitioner is suspended during the pendency of the appeal before the

appellate Court, subject to his furnishing bail bonds/surety bonds,
to the satisfaction of the Chief Judicial Magistrate, Yamuna Nagar
at Jagadhri.

28.09.2015

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(JITENDRA CHAUHAN)
JUDGE

Note : Whether to be referred to Reporter? Yes / No.