

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-717-2015

Date of decision: 23.09.2015

Vijay Kumar

... Petitioner

Vs.

Gurmeet Singh and anr.

... Respondents

CORAM: HON'BLE MR.JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Deepak Basatia, Advocate
for the petitioner.

Mr. Sushil Kamboj, Advocate
for respondent No.1

Mr. Ashish Yadav, Addl. AG, Haryana.

1. Whether reporters of local papers may be allowed to see the judgment? YES/NO
2. To be referred to the reporters or not? YES/NO
3. Whether the judgment should be reported in the digest? YES/NO

RAMESHWAR SINGH MALIK, J.

Instant criminal revision petition is directed against the order dated 15.11.2014, passed by learned Addl. Sessions Judge, Yamuna Nagar at Jagadhri, whereby appeal of the petitioner, against the judgment of conviction dated 13.07.2012, passed by the learned Judicial Magistrate 1st Class, Yamuna Nagar at Jagadhri, was dismissed for want of prosecution.

Notice of motion was issued and operation of the impugned order was stayed.

Learned counsel for the petitioner raises only one argument that

the petitioner was not keeping good health and it was a bonafide reason for his non-appearance on the day when impugned order was passed. He further submits that given only one opportunity, petitioner shall ensure that his appeal is argued without seeking any further adjournment. He prays for allowing the present petition.

On the other hand, learned counsel for the complainant-respondent No.1 submits that since the petitioner has been misusing the process of Court, the impugned order deserves to be upheld. He seeks dismissal of the present petition.

Having heard the learned counsel for the parties at some length, after careful perusal of the record of the case and giving thoughtful consideration to the contentions raised, this Court is of the considered opinion that keeping in view the peculiar facts and circumstances of the case, instant petition deserves to be accepted, for the following more than one reasons.

It is the settled proposition of law that instead of dismissing the case for want of prosecution, endeavour of the Court should be to decide the same on merits. No litigant should be forced to go home with a grievance that he was not granted due opportunity to put up his case before the Court. Although from the perusal of the impugned order, it seems that the learned Additional Sessions Judge was forced to pass the impugned order because of non-cooperation on the part of the petitioner, yet it would be in the fitness of things that petitioner is granted one more opportunity to argue the appeal so that it is decided on merits.

In view of the above, impugned order dated 15.11.2014 passed by the learned Additional Sessions Judge, Yamuna Nagar at Jagadhri is

hereby set aside. Case is remanded back to the Court of learned Additional Sessions Judge, Yamuna Nagar at Jagadhri for deciding the appeal on merits, in accordance with law.

The parties are directed to appear before the learned Additional Sessions Judge, Yamuna Nagar at Jagadhri on 20.10.2015. On that day, the learned Additional Sessions Judge shall adjourn the case for arguments and after hearing both the parties, appeal shall be decided on merits.

Resultantly, with the abovesaid observations made and directions issued, instant petition stands allowed, however, with no order as to costs.

[RAMESHWAR SINGH MALIK]
JUDGE

23.09.2015
vishnu