

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

Crl. Appeal S-2166-SBA of 2004

Date of Decision : November 15, 2016

Enforcement Officer, Enforcement DirectorateAppellant

VERSUS

Suresh KhannaRespondent

CORAM: HON'BLE MR. JUSTICE T.P.S. MANN

Present : Ms. Ranjana Shahi, Advocate
for the appellant.

Mr. Premjit Singh Dhaliwal, Advocate
for the respondent.

T.P.S. MANN, J. (Oral)

The respondent was tried for contravening the provisions of Section 8(1) and 8(2) of the Foreign Exchange Regulation Act, 1973 (hereinafter referred as 'the Act') and punishable under Section 56 of the said Act. Vide judgment dated 11.2.2004, learned Chief Judicial Magistrate, Jalandhar, after holding that the prosecution had miserably failed to prove the charge against the respondent beyond any shadow of doubt, acquitted him of the same.

It is the case of the complainant that opportunity notice Ex.P4 was served upon the accused/respondent. The said notice was shown to have been served upon the respondent through Constable Dukhi Ram but said Dukhi Ram was not examined at the trial of the case. Further, notice was shown to have been received by one Kuldeep care of Suresh Kumar but it

has not been brought on record as to who that Kuldip was. Therefore, in the absence of due service of notice, no prosecution could be launched against the respondent, which fact stands admitted by PW1 Shri Mohinder Singh, Chief Enforcement Officer.

Learned counsel for the appellant has submitted that no such notice like Ex.P4 was required to be served upon the respondent in order to criminally prosecute him as the notice was required to be served in the adjudicatory proceedings only. However, from the impugned judgment, it is made out that no adjudicatory proceedings were held by the department and, therefore, the launching of proceedings against the respondent was vitiated.

In view of the above, there is no merit in the appeal, and the same is, accordingly, dismissed.

November 15, 2016
amit rana

(T.P.S. MANN)
JUDGE

Whether speaking/reasoned. : Yes/No

Whether Reportable. : Yes/No