

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

Sr. No.236

CRM NO. M-4404 of 2012 (O&M)
DECIDED ON: December 14, 2016

SUKHPAL SINGH

..PETITIONER

VERSUS

STATE OF HARYANA AND ANOTHER

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Kuldeep Singh Godara, Advocate,
for the petitioner.

Ms. Neelam Kashyap, DAG, Haryana,
for respondent No.1.

Mr. Jagjit Gill, Advocate,
for respondent No.2.

JASPAL SINGH, J. (ORAL)

By virtue of the instant petition preferred under Section 482 Cr.P.C., petitioner has sought quashing/setting aside the impugned order dated 01.11.2011 passed by learned Additional Sessions Judge, Fast Track Court, Sirsa, whereby the criminal revision petition of the petitioner has been dismissed.

CRM NO. M-4404 of 2012 (O&M)

Brief facts of the case are that respondent No.2 preferred a complaint under Section 138 of Negotiable Instruments Act (for short 'Act') against the father of the petitioner on 21.04.2008 on the allegations that his father borrowed a sum of Rs.8 lacs from the complainant-firm and in discharge of aforesaid liability, he has issued three cheques in favour of respondent No.2-firm. The details of which in para No.3 of the petition. On presentation, cheque No.525502 dated 14.03.2008 for a sum of Rs.4 lacs and another cheque No.525504 dated 15.05.2008 worth Rs.2 lacs were dishonoured and after necessary formalities, criminal complaint No.97-2 of 2008 was preferred under Section 138 of the Act in which father of the petitioner was convicted and sentenced to undergo RI for one year and to pay compensation of Rs.7,50,000/- to the complainant under Section 357 Cr.P.C.

Here it would be pertinent to mention that judgment of conviction and order of sentence was not challenged by the father of the petitioner during his lifetime. However, he was taken away by the nature on 24.03.2011.

The contention of learned counsel for the petitioner is that petitioner was minor at the time of the demise of his father and even he was also not aware about the passing of judgment of conviction and order of sentence. He only came to know about the aforesaid fact when he received the notice during execution proceedings on 26.08.2011. Then he raised certain objections before learned Magistrate and it appears that those objections were dismissed.

Thereafter, a revision petition against the judgment of conviction dated 11.03.2011 and order of sentence dated 15.03.2011 has

CRM NO. M-4404 of 2012 (O&M)

been filed along with an application seeking condonation of delay. The application moved for condonation of delay in filing the revision petition was dismissed vide impugned order dated 01.11.2011 passed by the Additional Sessions Judge, Fast Track Court, Sirsa which necessitated the filing of the instant petition.

Here it would be pertinent to mention that no appeal against the judgment of conviction dated 11.03.2011 and order of sentence dated 15.03.2011 was filed either by the petitioner or by his father during his lifetime. The revision petition preferred by the petitioner is not legally maintainable. The delay of 1401 days in filing the revision petition which can also be said to be an ill-advice by the counsel. The petitioner is stated to be minor at the time of the demise of his father. He cannot be said to be aware about the litigation, if any, pending or the conviction and sentence imposed by the learned Magistrate upon his father.

Taking into consideration of the aforesaid aspects and keeping in view the interest of the parties, this court is of the considered view that it would be desirable in the fitness of things that petitioner be granted an opportunity to prefer an appeal against the judgment of conviction dated 11.03.2011 and order of sentence dated 15.03.2011, which shall be disposed of by the Appellate Court in accordance with law, without keeping in mind the law of limitation which otherwise stands condoned.

Thus, petitioner is directed to prefer an appeal within a period of 15 days from the date of receipt of a certified copy of this order, which shall be dealt with and disposed of by the Appellate Court within a period of six months.

CRM NO. M-4404 of 2012 (O&M)

It is also expected that the complainant as well as the State of Haryana would render co-operation for the disposal of the appeal within stipulated period.

December 14, 2016
Ankur

(JASPAL SINGH)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No