

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

CRM-M-44252 of 2016.

Decided on:-23.08.2017.

Amar Singh and others

.....Petitioners.

Versus

Gurmeet Singh Butter and others

.....Respondents.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

Present:- Mr. Rajesh K. Dadwal, Advocate
for the petitioners.

HARI PAL VERMA, J.

The petitioners have filed the present petition under Section 482 Cr.P.C. for quashing of order dated 04.05.2016 passed by learned Additional Sessions Judge, Patiala, whereby the application filed by petitioner No.1 Amar Singh under Section 5 of the Limitation Act, 1963 seeking condonation of delay in filing the revision petition, was dismissed and as a consequence thereof, even the revision petition filed by him was dismissed vide separate order dated 04.05.2016.

Briefly stated, the respondent-complainants had filed a complaint under Sections 138/141/142 of the Negotiable Instruments Act, 1881 and Sections 420/415/120-B/500/504 IPC against the petitioners-accused alleging therein that the accused, in order to discharge their liability, had issued two cheques in favour of the complainant. However, on presentation of these

cheques, the same were dishonoured and returned to the complainant with the memo "balance not available". The complainant issued a legal notice, but still the accused failed to pay the amount of cheques despite service of legal notice.

Accordingly, vide order dated 05.06.2013 passed by learned Sub Divisional Judicial Magistrate, Nabha, all the accused were ordered to be summoned to face trial under Sections 138 and 141 of the Negotiable Instruments Act, 1881.

The aforesaid summoning order was challenged by petitioner No.1 Amar Singh by way of revision petition before the Court of Session. Along with the revision petition, an application under Section 5 of the Limitation Act, 1963 was also filed seeking condonation of delay in filing the revision petition. However, vide orders dated 04.05.2016 passed by learned Additional Sessions Judge, Patiala, the application under Section 5 of the Limitation Act, 1963 as well as the revision petition were dismissed.

It is in these circumstances, the petitioners-accused have filed the present petition.

Learned counsel for the petitioners-accused has argued that petitioner No.1 Amar Singh is an old person having low eye sight, joint problem and other ailments, undergoing treatment and has remained in hospital. Therefore, he remains in mental tension and agony. It was only in the Month of October, 2015 after some recovery from his ailment, he had filed the revision petition before the Court of Session and, therefore, the delay caused in filing the revision petition was not intentional.

I have heard learned counsel for the petitioners.

Learned revisionary Court has dismissed the application under Section 5 of the Limitation Act, 1963 noticing the fact that the notices sent for service of the respondent-complainants were received back with the report of incorrect address. The petitioner-accused was directed to furnish correct address of the respondent-complainants, but despite having been granted three effective opportunities, the correct addresses were not supplied. Even on the date when the revision petition was listed for hearing on 04.05.2016, neither the petitioner-accused nor any duly authorised representative on his behalf had appeared before the revisionary Court. Since no such medical evidence regarding ailment and admission of the petitioner-accused in the hospital, was produced before the Court, the revisionary Court had dismissed the application for condonation of delay in filing the revision petition vide order dated 04.05.2016. Vide separate order dated 04.05.2016, the revision petition filed by petitioner-accused Amar Singh was also dismissed being time barred.

The impugned order passed by the revisionary Court shows that the petitioner-accused was not serious in pursuing his remedies. Vide order dated 05.06.2013 passed by learned Magistrate, all the petitioners-accused were summoned to face trial under Sections 138, 141 and 142 of the Negotiable Instruments Act, 1881. Instead of appearing before the trial Court, said order of summoning was challenged by way of revision petition by petitioner No.1 Amar Singh. Thus, the order of summoning dated 05.06.2013 was challenged by the petitioners by way of revision petition before learned Sessions Court in October, 2015. Even before the revisionary Court, the

petitioners were not serious in pursuing their case, as despite various adjournments, the petitioners had not furnished correct addresses of the respondent-complainants. On 04.05.2016, when the revision petition was listed before learned Additional Sessions Judge, no one appeared before the revisionary Court.

Therefore, this Court finds that there is no illegality or irregularity in the impugned order dated 04.05.2016 passed by learned Additional Sessions Judge, Patiala. Accordingly, the impugned order is upheld and the present petition, being without any merit, is dismissed.

August 23, 2017
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No