

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

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CRM-M-47198-2017

Date of Decision: 12.12.2017.

Jeet Singh (since deceased) through his L.R. Yogesh Kumar

....Petitioner.

Versus

State of Haryana and another

....Respondents.

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Tarun Dhingra, Advocate for the petitioner.

Ramendra Jain, J.(Oral)

Through this petition under Section 482 of the Criminal Procedure Code (for short, 'Cr.P.C.'), prayer has been made for setting aside the order dated 19.07.2017 of the first appellate Court, Kurukshetra, thereby dismissing the appeal of the petitioner for want of prosecution.

Briefly stated, respondent No.2 was booked, tried and acquitted in case F.I.R. No.479 dated 12.09.2006 got registered by deceased father of the petitioner, namely, Jeet Singh in Police Station City, Thanesar. Being aggrieved, Jeet Singh preferred an appeal but, during its pendency expired, therefore, the petitioner, being his son, moved an application for impleading the legal heir of Jeet Singh which was allowed vide the impugned order. However, their appeal was dismissed on the ground of non prosecution noticing the fact that despite obtaining various opportunities, legal heir of Jeet Singh did not furnish the correct address of respondent No.2.

Learned counsel for the petitioner inter-alia contends that address of respondent No.2, given in the appeal, was the same, which he had disclosed while recording his statement under Section 313 Cr.P.C. Even otherwise, another criminal case was pending against respondent No.2 in which he was regularly appearing, therefore, summons could have been served upon him in the Court premises also.

Having given considerable thought to the submissions made by learned counsel for the petitioner, I find the impugned order completely erroneous for the simple reason that the petitioner, being legal heir of Jeet Singh, was never afforded an opportunity of providing correct address of respondent No.2, instead on the same date his application for impleading as L.R. of appellant Jeet Singh was allowed and simultaneously his appeal was dismissed. To make it more clear, the petitioner, after impleading as L.R. of appellant Jeet Singh, was not afforded an opportunity to provide the correct address of respondent No.2. In fact, respondent No.2 was evading his service deliberately and wilfully in the proceedings of the appeal and therefore, there was no fault of the petitioner, for which he has been punished by dismissing his appeal.

In view of above, this petition is allowed and the impugned order is set aside. The first appellate Court, Kurukshetra is directed to proceed further with the appeal in accordance with law.

(RAMENDRA JAIN)
JUDGE

12.12.2017
jitender sharma

Whether speaking/ reasoned : Yes/ No

Whether Reportable : Yes/ No