

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

CRR-2850 of 2015
Date of decision:- 2.4.2018

Ishwar Chand

...Petitioner

Versus

Ranbir Singh and another

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Atul Lakhanpal, Senior Advocate with
Mr.Arjun Lakhanpal, Advocate
for the petitioner.

Mr.Madan Gupta, Advocate
for the respondent No.1.

Mr.Ravinder Malik, Advocate
for the respondent No.2.

H.S. MADAAN, J.

This revision petition is directed against the order dated
11.5.2015 passed by learned Additional Sessions Judge, Kurukshetra.

Briefly stated, facts of the case are that complainant Ishwar
Chand had filed a complaint under Sections 466 and 120-B IPC against
Shiv Kumar (since dead), Ranbir Singh and Jai Narain, which was
dismissed vide order dated 2.8.2010 and accused Ranbir Singh and Jai
Narain were discharged.

The complainant challenged that order by way of filing a

criminal revision petition, which was disposed of vide order dated 23.3.2012 by this Court holding that order was appealable in view of provisions of Section 372 Cr.P.C., as amended. Counsel for the petitioner had withdrawn the petition seeking liberty to challenge the order before the Court of Sessions in accordance with law. It was ordered accordingly.

Thereafter, the complainant filed an appeal in the Court of Sessions moving an application for condonation of delay, which was contested. The version set up by the respondents was that discharge amounts to acquittal and the appeal against acquittal is not maintainable before the Court of Sessions in terms of the law laid down in authority **M/s TATA Steel Limited Vs. M/s Atma Tube Products Limited and others, 2013(3) Law Herald (P&H) 2033 (FB)**. An objection regarding appeal being time barred and revision preferred before this Court being also time barred was taken. Vide detailed order dated 11.5.2015, the application for condonation of delay was dismissed, consequently, the appeal being time barred was also dismissed.

This order left the complainant aggrieved and he has filed the present revision petition, notice of which has been issued to the respondents, who put in appearance through counsel.

I have heard learned counsel for the parties besides going through the record and I find little merit in the revision petition.

The contention of learned counsel for the petitioner is that appeal against acquittal was not maintainable before the Court of Sessions but even then it was heard and disposed of by learned Additional Sessions Judge, Kurukshetra. This order is nonest, therefore, the order is bound to ignored. Whereas this contention is vehemently contested by learned

counsel for the respondents.

It has to be kept in view that Judicial Magistrate Ist Class, Kurukshetra vide order dated 2.8.2010 had discharged the accused under Section 245 Cr.P.C., in that way dismissing the complaint. The proper remedy was to approach this Court seeking special leave to appeal under Section 378(4) Cr.P.C., whereas it was not so done and rather a revision petition was filed in this regard, which was later on withdrawn seeking liberty to challenge the order before the Court of Sessions and that revision petition itself appears to have been filed beyond period of limitation since the impugned order is dated 2.8.2010 whereas petition was filed in the year 2012 i.e. more than one year thereafter obviously beyond the period of limitation. Nevertheless the same was withdrawn by petitioner himself seeking liberty to challenge the impugned order before the Court of Sessions. An application under Section 5 of the Limitation had been filed for condonation of delay, which vide impugned order was dismissed. Court of Id. Additional Sessions Judge, Kurukshetra had not entered into controversy whether impugned order is appealable or revisable. Learned counsel appearing for the petitioner had conceded that only revision was maintainable and he had requested that appeal be treated as revision. This is so mentioned in para No.10 of the impugned order but that request was not accepted by learned Additional Sessions Judge, Kurukshetra. The said order is being challenged by way of revision. I do not find any illegality or infirmity in the impugned order, which might have called for interference by this Court exercising revisional jurisdiction. The complainant himself has not been clear as to what remedy was open to him to challenge the order of discharge passed

by the trial Court and he cannot take advantage of that ignorance in any manner.

Thus, the revision petition is found to be without any merit and is dismissed accordingly.

2.4.2018
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No