

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR No.1052 of 2018(O&M)
Date of Decision:25.07.2018

Heera LalPetitioner
Vs.

State of Haryana and anotherRespondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr.S.P.S.Sidhu, Advocate for the petitioner.

Mr.D.R.Singla, DAG, Haryana.

SUDHIR MITTAL J. (ORAL)

This revision petition is directed against the judgment dated 18.01.2018 whereby the Sessions Judge, Faridabad has dismissed the appeal of the petitioner for non-prosecution.

The petitioner stood convicted under Section 138 of the Negotiable Instruments Act, 1881, vide judgment dated 18.12.2017 passed by the Judicial Magistrate, Ist Class, Faridabad.

Learned counsel for the petitioner has relied upon the judgment of Hon'ble Supreme Court titled as **Bani Singh Vs. State of U.P., 1996 (3) RCR (Criminal) 201**, to contend that Appellate Court is bound to decide an appeal on merits and could not dismiss the same for non-prosecution simpliciter. This is in view of the language of Sections 385 and 386 of the Code of Criminal Procedure, 1973.

Learned State counsel is unable to refute the arguments of learned counsel for the petitioner.

In view of the above, present petition is allowed; Impugned order dated 18.01.2018 passed by the Sessions Judge, Faridabad, is set aside and the case is remitted back to the latter for deciding the appeal afresh on merits, in accordance with law.

Copy of this order be sent to the Court of Sessions Judge, Faridabad for compliance.

(SUDHIR MITTAL)
JUDGE

25.07.2018
Anjal