

**IN THE HIGH COURT OF PUNJAB AND HARAYANA AT CHANDIGARH
229**

CRR-1273-2018 (O&M)

Date of decision:31.05.2018

Dalbir

...PETITIONER

Vs.

Jaipal and another

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Rahul Deswal, Advocate,
for the petitioner.

Complainant in person.

Mr. Sharad Yadav, DAG, Haryana,
for the State.

AUGUSTINE GEORGE MASIH, J. (ORAL)

The present revision petition has been preferred challenging the judgment dated 01.05.2015 and the order of sentence dated 02.05.2015 passed by the Judicial Magistrate Ist Class, Ganaur, vide which the petitioner was convicted and sentenced for a period of one year with fine of ₹6,50,000/- under Section 138 of the Negotiable Instruments Act and the order dated 27.03.2018 passed by the learned Additional Sessions Judge, Sonapat, vide which the appeal preferred by the petitioner has been dismissed.

When the case came up for hearing before this Court initially on 03.05.2018 when the records were summoned and thereafter on 17.05.2018, the following orders were passed:-

On 03.05.2018, following order was passed by this Court.

“Counsel for the petitioner contends that the application
moved by the petitioner for leading additional evidence

before the learned Appellate Court was considered and heard on 27.03.2017 and in the order it is mentioned that separate judgment of the same date has been passed dealing with the application as well as the appeal of the petitioner. Reference in this regard has been made to Annexure P-5, however, he states that there appears to be a typographical error as the year has wrongly been mentioned as '2017', whereas it should have been '2018'. He further states that in the judgment which has been passed by the learned Additional Sessions Judge, Sonapat, dated 27.03.2018 attached with the petition, there is nothing mentioned with regard to the application for additional evidence preferred by the petitioner. Registry to call for the records of the trial Court as well as the Appellate Court for **17.05.2018.**”

In pursuance thereto, records have been received.

Counsel for the petitioner states that he has gone through the original records of the case and stands by the statement as has been recorded in the above order.

Notice of motion for 31.05.2018.

Dasti only.”

Complainant has put in appearance and so has the counsel for the State. Complainant states that he does not want to engage a counsel.

With the assistance of the counsel for the petitioner as well as the counsel for the State, records have been perused and on perusal thereof, the assertion made by the counsel for the petitioner as recorded in order

dated 03.05.2018 and reproduced in order dated 17.05.2018 has been found to be correct.

In view of the above, since the application preferred by the petitioner for leading additional evidence before the Appellate Court has not been decided by the Appellate Court along with the appeal or prior thereto or through a separate order, the interest of justice would require that the matter be remanded back to the Appellate Court for decision on the application for additional evidence and for decision on the appeal afresh accordingly.

In view of the above, the impugned judgment dated 27.03.2018 is hereby set aside. Case is remanded back to the Appellate Court at Sonapat.

Parties are directed appear before the Appellate Court on 17.07.2018. Records of the case be sent forthwith.

Since the petitioner is in custody, he be released forthwith on submission of bail/surety bonds to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate, Sonapat.

Petition stands disposed of accordingly.

May 31, 2018

pj

**(AUGUSTINE GEORGE MASIH)
JUDGE**

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No