

CRR-859-2017 (O&M)

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

CRR-859-2017 (O&M)

Date of Decision: 10th May, 2018

Ram Kumar Sihag

...Petitioner

Versus

Om Parkash deceased through his legal heir Sanjeev Kumar

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Yogesh Kumar Aneja, Advocate,
for the petitioner.

Mr. J.S. Grewal, Advocate
for the respondent.

AUGUSTINE GEORGE MASIH, J. (ORAL)

This revision petition has been filed primarily challenging the judgment passed by the Additional Sessions Judge, Fazilka, dated 14.12.2016, whereby, appeal preferred by the petitioner against the judgment dated 10.11.2014 passed by the Sub Divisional Judicial Magistrate, Abohar, wherein, the petitioner was convicted and sentenced to undergo rigorous imprisonment for a period of two years and to pay a fine of ₹ 5,000/-, in default of payment of fine, to further undergo six months of sentence for an offence under Section 138 of the Negotiable Instruments Act, has been dismissed.

It is the contention of the learned counsel for the petitioner that the appeal came up for hearing before the learned Additional Sessions Judge, Fazilka, on 29.11.2016 when the same was adjourned to 07.02.2017 for consideration and arguments. However, the case was taken up for hearing on 07.12.2016 and finally decided on 14.12.2016, on which dates, none had appeared for the appellant as the date, which was noted down by the counsel for the appellant, was 07.02.2017. He further points out that on 07.12.2016, counsel for the respondent had put in appearance, however, on the date when the appeal was finally decided i.e. 14.12.2016, none of the parties had appeared before the Appellate Court and the learned Additional Sessions Judge, Fazilka, had proceeded to decide the appeal against the petitioner. He contends that the records of the case would substantiate his contentions.

I have perused the records of the Appellate Court and found the assertions of the counsel for the petitioner to be correct. Therefore, keeping in view the interest of justice and fair play with an intention to give the counsel for the parties an opportunity to put forth their respective claims and submissions and for decision of the appeal after hearing the parties, the impugned judgment dated 14.12.2016 passed by the learned Additional Sessions Judge, Fazilka, along with all consequential proceedings thereto are hereby set aside. Parties are directed to appear before the District & Sessions Judge, Fazilka, on 17.07.2018.

The Appellate Court will decide the case on merits without being influenced by any observation made in the impugned order by his or

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her predecessor.

The revision petition stands disposed of in above terms.

Records of the Court below be sent forthwith.

CRM-7549-2017

In the light of the disposal of the main revision petition, the present petition has been rendered infructuous.

Disposed of as such.

(AUGUSTINE GEORGE MASIH)
JUDGE

10th May, 2018
Harish

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No