

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRR-1958-2017 (O&M)

Date of decision: 14.03.2019

Dharmender Kumar

..... Petitioner

Versus

State of Haryana and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. Rakesh Dhiman, Advocate for the petitioner.

RAMENDRA JAIN, J. (ORAL)

Through this revision, petitioner has laid challenge to the order dated 15.02.2017 of the Ist Appellate Court, whereby his appeal against the judgment of acquittal of the trial Court dated 21.07.2015 (Annexure P-2), was dismissed for want of prosecution.

In nutshell, petitioner-complainant entered into agreement to sell dated 08.04.2019 with respondent No. 2-Rajinder, qua purchase of plot measuring 200 Sq. Yards for a total sale consideration of Rs.13,00,000/-, out of which Rs.7,00,000/- was paid by the petitioner as earnest money. Thereafter, respondent No. 2 neither executed the sale deed nor he returned the earnest money to the petitioner-complainant, rather sold the said plot to one Bimla Devi on 29.07.2009. With these broad allegations, the petitioner lodged FIR No. 93 dated 24.05.2010

under Sections 420, 467, 468 and 471 IPC, Police Station Badshahpur, Gurgaon, against respondent No. 2. After holding full fledged trial, respondent No. 2 was acquitted by the trial Court vide judgment Annexure P-2.

Being aggrieved, the petitioner approached the Ist Appellate Court, but his appeal was dismissed for want of prosecution for not filing process-fee in time.

Learned counsel *inter alia* contends that the punishment of dismissal of appeal awarded to the petitioner is dis-proportionate to his act of non-filing of process-fee. The petitioner would suffer an irreparable loss, if, impugned order dated 15.02.2017, dismissing the appeal of petitioner is not set aside.

Having given thoughtful consideration to the submissions of learned counsel for the petitioner, this Court finds merits acceptance of this revision for the reasons to follow:

It is well settled that nobody should be condemned unheard. In other words, a litigant should not be non-suited on technical grounds. Endeavour of the Court should always be to impart justice on merits, ignoring all intricacies and technicalities of law.

Therefore, in the interest of justice, the impugned order dated 15.02.2017, is set aside. The Ist Appellate Court is directed to restore the appeal of petitioner to its original number, subject to furnishing of process fee, requisite number of copies of paper-book, registered covers and incidental expenses etc. The petitioner is also burdened with costs of

Rs.10,000/- to be deposited with District Legal Aid Services Committee,
Gurugram.

Petitioner is directed to appear before the Ist Appellate court
on 10.04.2019, along with original receipt qua deposit of aforesaid costs.

The instant revision stands disposed of, accordingly.

March 14, 2019
rishu

(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No