

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

**CRR-2455-2019 (O&M)
Date of Decision: 18.10.2019**

Saeed Ali

...Petitioner

Versus

Satish

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Manoj Kumar, Advocate for the petitioner.
None for the respondent.

ANIL KSHETARPAL, J.

CRM-29604-2019

Prayer is to condone the delay of 820 days in filing the petition.

It has been pleaded that the petitioner challenged the order passed by the learned trial court dated 22.05.2017 before the Court of Sessions which entertained the revision petition but ultimately dismissed on 03.09.2019, on the ground that it is not maintainable.

Keeping in view the facts of the present case, delay in filing the revision petition is condoned as the petitioner had filed a revision.

CRM stands disposed of.

Main case

Petitioner is an accused in a criminal complaint filed under Section 138 of the Negotiable Instruments Act, 1881.

The learned Magistrate tried the case as a summon case and summoned the petitioner. The petitioner on appearance filed a plea of defence on 04.01.2017, however, request for cross-examination of the complainant was inadvertently left out. Realising this mistake, the

petitioner filed an application for permission to cross-examine the complainant on 01.03.2017. The aforesaid application has been dismissed by the court for the reason that in the first application such prayer was not made.

Opportunity to cross-examine a witness, more particularly, the complainant is a significant and important right of the accused. The accused has been given such right to enable him to extract truth and correct facts in the cross-examination and such right cannot be easily defeated.

In the present case, plea of defence was filed by the accused when he appeared before the court pursuant to summoning. No doubt, in the first application, no prayer for permission to cross-examine the complainant was made. However, the aforesaid mistake was sought to be corrected by moving another application, which has been dismissed by the court.

Keeping in view the facts of the case, this Court is of the view that the learned Judicial Magistrate 1st Class has committed an error in refusing the opportunity to the petitioner-accused. Hence, the order dated 22.05.2017 is set aside. The petitioner is granted opportunity to summon the complainant and cross-examine him.

Disposed of.

18.10.2019
mks

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No