

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

**CRR-2155-2018 (O&M)
Date of Decision : 03.02.2020**

Prabhjit Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAMENDRA JAIN

Present : Mr. Amit Arora, Advocate
for the petitioner.

Mr. Pawan Sharda, Senior DAG, Punjab.

RAMENDRA JAIN, J. (Oral)

Through this revision, petitioner-accused has assailed judgment dated 05.02.2018 of the Appellate Court, whereby it, setting aside the judgment dated 13.10.2016 of the trial court, remanded the case for fresh decision.

Briefly, petitioner was booked and tried under Sections 51, 52-A, 63 and 65-A of the Copy Right Act on the allegations that on 04.08.2015 in the area of Adda Dhotian, he was found transferring songs from his computer, copy right of which was with Super cassettes Industries Private Limited. During trial, the petitioner confessed his guilt. Thus, the trial court, taking into account his confession, imposed only a fine of Rs.1,000/-. In default thereof, to undergo simple imprisonment for two days vide order dated 13.10.2016.

Feeling the aforesaid punishment to the petitioner

disproportionate, State preferred an appeal before the Lower Appellate Court.

After hearing both the sides, the appellate Court, setting aside the order dated 13.10.2016 of the trial court, remanded the case for fresh decision vide order dated 05.02.2018.

Having given thoughtful consideration to the rival submissions, this Court finds the instant revision merits acceptance for the reasons to follow.

The petitioner has already faced a protracted trial for around 4-5 years. There is no iota of evidence with the prosecution that petitioner was transferring songs through computer. It is also not mentioned in the FIR that in what shape, petitioner was transferring songs whether it was CD or pen drive etc., inasmuch as, no statement of any customer purchasing pirated CD or any other device was recorded. No customer was found on the shop, supporting the prosecution story to say that he had purchased duplicate or pirated CD or device from the petitioner by paying money. Thus, the case of petitioner is squarely covered by the proviso under Section 3 of the Copy Right Act whereby trial court, in its discretion can relax the minimum limit of imprisonment of six months. The direction of appellate court to record complete prosecution evidence in the remand order would result in wasting of precious time of the court, inasmuch as, the same is not going to serve any purpose in view of the confession/candid admission of the petitioner.

In view of aforesaid discussion, the impugned order dated

05.02.2018 of the lower appellate court is set aside and that of the trial court dated 13.10.2016 is upheld.

Disposed of.

03.02.2020
mamta

(RAMENDRA JAIN)
JUDGE

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