

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
(through video conferencing)**

CRM-M-33620-2018
Decided on : 12.03.2021

Suresh Kumar

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Ms. Renu Dhull, Advocate
for the petitioner.

Ms. Tanushree Gupta, DAG, Haryana.

Manjari Nehru Kaul, J.

Instant petition has been filed under Section 482 Cr.PC for quashing of order dated 05.06.2018 (Annexure P-4) passed by Addl. District Judge, Kaithal vide which Crl. Appeal No.71/2016 titled as Suresh Kumar etc. vs State of Haryana was dismissed in default for want of prosecution.

Learned counsel for the petitioner submits that pursuant to the filing of chargesheet on 07.11.2016, an appeal was filed by him to impugn the same in which notice was issued to the respondent for 18.01.2017. He has further submitted that he along with his counsel had been appearing on each and every date, however, on 05.06.2018, the petitioner was unable to appear before the Court concerned as he was busy with his examination and the counsel representing him had lost his brief and case diary etc. and hence, he missed out on the date of hearing. Learned counsel has further submitted that Hon'ble Supreme Court in plethora of judgments has held that the criminal appeal cannot be dismissed in default due to the non-appearance of the party as all criminal appeals/revisions have to be decided on merits.

I have perused the impugned order and gone through the other material available on record.

After giving anxious consideration to the submissions made by learned counsel for the petitioner, this Court is of the considered opinion that the impugned order deserves to be set aside as nobody should be condemned unheard specially in criminal cases which should be decided on merits.

Accordingly, the present petition is allowed and the impugned order dated 05.06.2018 is set aside. Lower Appellate Court/Revisional Court is directed to proceed further, in accordance with law, by restoring the same to its original number.

Petitioner is directed to appear before the Lower Appellate/Revisional Court on 31.03.2021.

Copy of this order be sent to concerned Court for information and necessary action.

(MANJARI NEHRU KAUL)
JUDGE

12.03.2021

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