

CRA-AS-128-2016

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRA-AS-128-2016

Reserved on: 01.08.2022

Pronounced on:20.09.2022

Anil Kumar and another

...Appellants

Versus

Amrik Singh Sandhu

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Vipul Aggarwal, Advocate for the appellants.

Mr. Anshul Sharma, Legal Aid counsel  
for the respondent.

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ANOOP CHITKARA, J.

1. The appellants had filed a criminal complaint under NIA Act against the respondent on dishonor of cheque which was issued in return of a loan of Rs. 1,50,000/-.

2. Vide order dated 22.07.2015 neither the complainant appeared before the Court nor his counsel and nor any application for exemption was filed and as such, the trial Court dismissed the complaint under Section 256 CrPC, thereby acquitting the accused. Aggrieved by such order, the complainant has come up before this Court.

3. This Court had issued notice of motion vide order dated 12.04.2016, but despite service, none has put in appearance on behalf of the respondent. After that in the interest of justice, legal aid counsel was appointed on behalf of the respondent.

4. In the grounds of appeal in para 9, the complainant's stand is that his counsel had immigrated to USA and had boarded flight in the morning of 22.07.2015. He had handed over all his briefs to another counsel but the said counsel failed to take down correct date and also failed to inform the complainant about the date. The complainant has also drawn attention to orders dated 13.07.2015, 20.07.2015 and 22.07.2015, when on all three dates the accused was present and he had offered to pay a part payment of a sum of Rs.25,000/- to the complainant but due to absence of the complainant the compromise could not take place.

5. I have heard learned counsel for the appellant as well as legal aid counsel for the respondent and also gone through the file.

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6. Perusal of the file reveals that absence of the complainant is beyond his control and it was not malafide.

7. Given above, the impugned order dated 22.07.2015, is quashed and set aside. The matter is remanded back to the trial Court. The trial Court to issue fresh notices/summons to both the parties. **The parties are directed to appear before the trial Court on 10.10.2022.**

Appeal is allowed in the terms mentioned above. Pending applications, if any, stand disposed of .

(ANOOP CHITKARA)  
JUDGE

20.09.2022  
anju rani

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