

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

201

**CRA-S-1646-SB-2010
Decided on : 10.11.2022**

HARDAM SINGH

... Petitioner(s)

Versus

SHUBHU DYING & TEXT WORKS AND ANR

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: None for the appellant.

SANJAY VASHISTH, J. (Oral)

Perusal of the file reveals that this case pertains to year 2010, filed against the judgment of acquittal dated 19.02.2009 passed by Special Judicial Magistrate Ist Class, Bathinda for offence punishable under Section 138 of the Negotiable Instruments Act.

In complaint, it was alleged that in the discharge of legally enforceable liability, respondents/accused has issued two cheques i.e. bearing Nos. 038657 dated 27.01.2007 and 38658 dated 27.05.2007 for an amount of Rs.25,000/- each, from the Account No. CA371, in the Bank of Punjab Branch, Bathinda.

Judgment of acquittal was pronounced on 19.02.2009 and thereafter, present appeal was filed, which is pending since then.

Orders passed by this Court from time to time, are reproduced hereafter:

On 19.08.2009 following order was passed by the then co-ordinate Bench of this Court:

“Present: None for the appellant.

Case has been called out twice. No one is present on behalf of the appellant.

Dismissed for want of prosecution.”

On 11.09.2009 following order was passed by the then co-ordinate Bench of this Court:

“Present: Mr. Amit Aggarwal, Advocate
for the applicant.

“Crl. Misc. No. 44848 of 2009

Having regard to the contents of the application, the same is allowed and Crl. M.No. 347-MA of 2009 is restored to its original number.

Crl.M.No. 347-MA-2009

Contentends that the learned trial Court while declining the prayer of the application has wrongly relied upon 2008(3) Civil Court Cases 171 (S.C.) for the reason that the facts of the instant case were distinguishable as some cheques had been given which had not been honoured. The applicant had not filed a complaint since the matter had been compromised and in lieu of the earlier cheques few other cheques were given which on presentation bounced leading to the fling of the complaint.

Notice of motion for 26.11.2009.”

On 26.11.2009 following order was passed by the then co-ordinate Bench of this Court:

“Present: Mr. Amit Aggarwal, Advocate for the appellant.

As per the office report, notices issued to

respondents have been received back with the report that they are not residing at the given address.

Let the needful be done and thereafter notice be issued to the respondents for 09.2.2010. Dasit as well.”

On 09.02.2010 following order was passed by the then co-ordinate Bench of this Court:

“Present: Mr. Amit Aggarwal, Advocate for the appellant.

As per office report dasti notices could not be issued to the respondents as the correct addresses were not furnished by the counsel for the appellant. Learned counsel for the appellant submits that he will do the needful forthwith.

Let notices be issued to the respondents through dasti process, on furnishing of their correct addresses, for 30.3.2010.”

On 30.03.2010 following order was passed by the then co-ordinate Bench of this Court:

“Present: Mr. Amit Aggarwal, Advocate for the appellant.

Ms. Harmanpreet Kaur, Advocate for the respondent.

List again on 12.07.2010.”

On 12.07.2010 following order was passed by the then co-ordinate Bench of this Court:

“Present: Mr. Amit Aggarwal, Advocate for the appellant.

*Mr. Manjit Singh, Advocate
for the respondent.*

Leave to appeal granted.

Admitted.”

On 01.02.2013 following order was passed by the then co-ordinate Bench of this Court:

“Present: None for the appellant.

None for the respondents.

Notice to the parties to issue for 15.03.2013.”

On 15.03.2013 following order was passed by the then co-ordinate Bench of this Court:

“Present: None for the appellant.

None for the respondents.

Appellant served but absent. Counsel for the appellant has not put in appearance. Respondents unserved as per report they are not residing at the given address. The circumstances as above, Lok Adalat cannot make an effort for settlement. Hence, the appeal is returned to the Hon’ble High Court.”

It appears that right from the admission of appeal vide order dated 12.07.2010, on most of the occasions, there was no representation from the side of appellant.

Perusal of the record shows that one information has been sent by Superintendent Criminal Branch for Registrar General vide letter dated 07.03.2019 to Mr. Amit Aggarwal, Advocate (P-2080/2001) wherein office report dated 12.03.2019 says that *“Counsel was not available in the Bar Room but he has been informed telephonically about the case.”*

Today matter was called twice in the first half session and now is the third call, but still there is no representation on behalf of the appellant.

In view of the circumstances noted here above, this Court does not find any reason to wait further for the representation on behalf of the appellant.

Therefore, in view of the situation as explained hereabove, this Court is of the view that there is no point to continue with the proceedings of the appeal, especially in the absence of the representing counsel, hence, present appeal stands dismissed for non-prosecution.

(SANJAY VASHISTH)
JUDGE

November 10, 2022

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<i>Whether speaking/reasoned:</i>	<i>Yes/No</i>
<i>Whether Reportable:</i>	<i>Yes/No</i>