

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

Sr. No.106

**CRR No.543 of 2022 (O&M)
Date of Decision: 24.03.2022**

Umed Solanki

.... Petitioner

Versus

Sandeep and another

... Respondents

CORAM: HON'BLE MR. JUSTICE SANT PARKASH

Present: Mr. S.K.Bishnoi, Advocate
for the petitioner.

SANT PARKASH, J. (ORAL)

The instant revision petition has been filed for setting aside the order dated 14.02.2022 passed by learned Sessions Judge, Sirsa whereby appeal filed by the petitioner against the order and judgment dated 19.01.2019 passed by learned JMIC, Sirsa, has been dismissed for want of prosecution.

It is submitted that vide judgment dated 19.01.2019, the present petitioner was convicted and sentenced to undergo simple imprisonment of one year for commission of offence punishable under Section 138 of the Negotiable Instruments Act, 1881 and further to pay compensation equal to the cheque amount i.e. Rs.2,75,000. Aggrieved against the said judgment of conviction, the petitioner preferred an appeal, which was dismissed by passing the following order:-

*“Intimation received from SHO regarding registration of
FIR No.109 of 2022 against appellant/convict Umed Solanki
who is proclaimed person in the present case. Warrant of
attachment issued against surety Balwinder Singh received
back unexecuted.*

The present criminal appeal is dismissed for non-prosecution. However, attachment proceedings with respect to personal bond of absconding accused and surety bond be separated. Copy of this order along with Trial Court record be sent to the concerned Court and present criminal appeal be consigned to record room after retaining the copy of bail bond along with previous attachment report and proceedings.”

The grievance of the petitioner is that instead of deciding the appeal on merits, the same was dismissed for want of prosecution, which is against the basis canons of law.

The submission made on behalf of the petitioner considered. The settled law is that the appeal can not be dismissed for want of prosecution and the first Appellate Court ought to have decided the same on merits.

Finding justification and legality in the submission of learned counsel for the petitioner, the present revision petition is allowed. Accordingly, the impugned order dated 14.02.2022 is hereby set aside and the case is remanded back to learned Sessions Court to decide the same on merit.

In the meanwhile, the remaining sentence of the petitioner is ordered to be suspended during pendency of the appeal before first Appellate Court, subject to furnishing bail/surety bonds to its satisfaction.

**(SANT PARKASH)
JUDGE**

24.03.2022
Maninder

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