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

**CRM-M-23024-2022 (O&M)
Date of Decision:25.05.2022**

Sumer Arora

.. Petitioner

Vs.

State of Haryana and another

..Respondents

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

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

...

Manoj Bajaj, J. (Oral)

The petitioner (convict) has filed this petition under Section 482 Cr.P.C. to challenge the order dated 22.12.2021 (Annexure P-4) passed by Appellate Court only to the limited extent of imposing a condition of depositing 25% of the compensation amount while suspending his sentence, as well as further order dated 11.03.2022 (Annexure P-9) has also been challenged, whereby his suspension of sentence was cancelled and non-bailable warrants were issued to secure his presence.

Learned counsel has argued that the petitioner was convicted for an offence punishable under Section 138 Negotiable Instruments Act, 1881 through judgment dated 02.03.2020 passed by the trial Court, and the same was challenged by filing Criminal Appeal No.211 of 2021, which is pending adjudication. He submits that the petitioner's sentence was suspended vide order dated 22.12.2021 by imposing a condition of depositing 25% of compensation amount awarded by the trial Court, at the time of inflicting sentence upon him, but as the petitioner is unable to deposit the same, therefore, his appeal is not being adjudicated. He refers to the order dated 14.02.2022 (Annexure P-13) passed in Criminal Revision

No.1387 of 2021 and submits that this Court while considering the similar issue had directed the Appellate Court to adjudicate the criminal appeal and at the same time, the sentence of imprisonment imposed upon convict was stayed. He prays that the similar directions be issued to the Appellate Court in this case as well.

After hearing the learned counsel, this Court finds that after getting the relief of suspension of sentence on 22.12.2021, the petitioner/convict never appeared before the Appellate Court and repeatedly sought exemption from personal appearance. The convict has also filed an application seeking waiver of the condition imposed in the order dated 22.12.2021, wherein the reply by the complainant has already been filed.

During the course of hearing, it is not disputed by Mr. Amit Jain, learned counsel that the application seeking waiver of the said condition is still pending. Thus, in view of the pendency of the said application before the Appellate Court, the prayer for quashing of the impugned order dated 22.12.2021 (Annexure P-4) is not maintainable.

Apart from it, the order of cancellation of suspension of sentence was passed on 11.03.2022 and warrants were issued for 10.05.2022. Concededly, the said warrants have not been executed and the petition has been filed much after the expiry of the warrants of arrest, therefore, this Court has no hesitation in holding that on the date of filing this petition, the alleged cause of action ceased to exist. Besides, no justifiable reason has been shown by the learned counsel for repeatedly seeking exemption from personal appearance, as after suspension of sentence, he never appeared to pursue his appeal. The decisions relied upon by the convict in respect of his case are not applicable in the facts and

circumstances of the case.

The petition is dismissed.

25.05.2022
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned

Yes No

Whether reportable

Yes No