

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

215(1)

1. CRR-4342-2017 (O&M)
Date of Order: 25.01.2022

M/S CRYSTAL INDIA AND ANR

..Petitioners

Versus

JAWAHAR LAL

..Respondent

2. CRR-4343-2017 (O&M)

M/S CRYSTAL INDIA AND ANR

..Petitioners

Versus

JAWAHAR LAL

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Shiv Kumar, Advocate
for the petitioners.

Mr. Sanjeev Roy, Advocate
for the respondent.

ANIL KSHETARPAL, J(Oral)

The hearing of the case is being held through video conferencing on account of restricted functioning of the Courts.

By this order, Criminal Revision No. 4342-2017 and Criminal Revision No. 4343-2017 shall stand disposed of.

The petitioners were convicted in a criminal complaint filed under Section 138 of the Negotiable Instruments Act, 1881, and were sentenced to an imprisonment for a period of 06 months and were subjected to pay a compensation of Rs.2,00,000/- to the complainant. The first appeal filed by the petitioners has been dismissed for non-prosecution.

Heard, the learned counsel representing the parties and with their able assistance perused the paper book.

The learned counsel representing the petitioners while relying upon **Bani Singh Vs. State of Uttar Pradesh 1996 (3) RCR (Criminal)**

201, contends that the first criminal appeal should not have been dismissed for non- prosecution. He further submits that the Court rather than dismissing the appeal for non-prosecution should have decided the appeal on merits.

The learned counsel representing the respondent is unable to controvert the aforesaid fact. He, however, contends that the petitioners in spite of opportunity given did not come forward to press the appeal on merits.

The convict has a valuable right of first appeal against the judgment of conviction. Hence, it has been held that the First Appellate Court must make a sincere endeavour for disposal of the appeal on merits.

Keeping in view the aforesaid facts, the order dated 13.10.2017, is set aside and the first appeal filed before the First Appellate Court is restored to its original number.

The First Appellate Court is directed to decide the appeal on merits. If the petitioners or their counsel do not come forward to assist the Court, then the Court will be at liberty to nominate a counsel from legal aid and proceed to decide the appeal.

The parties through their counsel are directed to appear before the First Appellate Court on 10.02.2022.

All the pending miscellaneous applications, if any, are also disposed of.

January 25, 2022

Ay/Chetan

(ANIL KSHETARPAL)
JUDGE

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