

In the High Court of Punjab and Haryana at Chandigarh

CRR No.2259 of 2022 (O&M)

Date of Decision: 11.11.2022

Surinder Kaur

---Petitioner

versus

State of U.T.Chandigarh

---Respondent

Coram: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr.R.K.Sanyal, Advocate,
for the petitioner
Mr. Yashwant Singh Rathore, Addl. PP, UT, Chandigarh

JAGMOHAN BANSAL (ORAL)

Prayer in the instant petition is for setting aside judgment dated 5.9.2022 passed by Additional Sessions Judge, Chandigarh whereby judgment and order of conviction dated 25.1.2019 passed by JMIC, Chandigarh, sentencing the petitioner to undergo simple imprisonment for 10 months and to pay compensation under Section 357(3) Cr.P.C. equivalent to cheque amount within a period of one month from expiry of period of appeal has been upheld.

The petitioner has been sentenced to imprisonment for 10 months and further ordered to pay cheque amount vide judgment and order dated 25.1.2019 and upheld vide judgment dated 5.9.2022 passed by ASJ, Chandigarh. The amount of cheque involved is Rs. 6 lakhs.

Learned counsel for the petitioner submits that impugned order has been passed by Appellate Court *ex parte*. Neither the petitioner nor her counsel was present at the time of final disposal of the appeal even though counsel for the appellant (petitioner herein) was present on all earlier

occasions. The impugned order has been passed in gross violation of principles of natural justice especially when the matter relates to life and liberty of the petitioner.

Notice of motion.

Mr. Yashwant Singh Rathore, Addl. PP, UT Chandigarh, accepts notice.

On being confronted with the above narrated facts, learned counsel for UT Chandigarh has expressed his inability to controvert the fact and submits that State has no objection if one opportunity is granted to the petitioner.

In view of the above-stated facts and keeping in mind that the impugned order has been passed in the absence of the petitioner and her counsel which amounts to violation of principles of natural justice; the matter directly relates to life and liberty of the applicant-petitioner, thus, it would be travasity of justice and violation of principles of natural justice especially in view of the fact that the applicant-petitioner has undertaken to be present on the next date before the Appellate Court, the petition is allowed. The impugned order passed by the Additional Sessions Judge, Chandigarh dated 5.9.2022 is set aside. The petitioner is directed to be present before the Appellate Court on 21.11.2022. It is made clear that no adjournment shall be granted and Additional Sessions Judge, Chandigarh shall hear and decide the appeal on the date fixed i.e. 21.11.2022.

(JAGMOHAN BANSAL)
JUDGE

11.11.2022

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Whether speaking/reasoned : Yes
Whether reportable : No