

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

**CRR-229-2022 (O&M)
Date of Decision:02.03.2023**

GAURAV

..... Petitioner

Versus

STATE OF HARYANA

..... Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. Sawan Chaudhary, Advocate
for the petitioner.

Mr. Dimple Jain, AAG, Haryana.

Mr. Sandeep Lather, Advocate
for respondent No.2.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition is seeking quashing of order dated 10.01.2022 whereby learned Additional Sessions Judge, Jind has dismissed appeal against order dated 21.09.2020 passed by Principal Magistrate, Juvenile Justice Board, Jind.

2. The Juvenile Justice Board, Jind vide order dated 21.09.2020 directed the petitioner to appear before District and Sessions Judge, Jind as Board formed an opinion that child in conflict with law is mentally and physically able to understand the consequences of the act done by him.

3. The petitioner preferred an appeal before Sessions Court assailing aforesaid order which came up for consideration before Additional Sessions Judge, Fast Track Court Special Court, POCSO, Jind which vide impugned order dated 10.01.2022 dismissed appeal on

the ground of delay. The Appellate Court held that there is delay of 350 days in filing the appeal and reason assigned by appellant for delay is not plausible.

4. Learned counsel for the petitioner *inter alia* contends that impugned order was passed on 21.09.2020 and appeal was filed on 06.09.2021. The Hon'ble Supreme Court vide order dated 10.01.2022 has held that period from 15.03.2020 to 28.02.2022 shall stand excluded for the purpose of limitation as may be prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings, thus, there was no delay still Appellate Court without considering the judgment of Hon'ble Supreme Court has dismissed appeal of the petitioner.

5. Learned counsel for the respondent No.2 submits that petitioner was pursuing his remedies, thus, he cannot claim benefit of order dated 10.01.2022 passed by Hon'ble Supreme Court in Suo Motu Writ Petition (C) No.3 of 2020. He submits that petitioner appeared before Sessions Court on 8-10 occasions, however, he did not file appeal. He further submits that judgment of Hon'ble Supreme Court was never brought in the knowledge of the Appellate Court, thus, petitioner cannot claim its benefit.

6. I have heard the arguments of both sides and perused the record.

7. From the perusal of record, it is quite evident that Juvenile Justice Board passed order on 21.09.2020 and petitioner preferred appeal before Sessions Judge on 06.09.2021. The petitioner did not claim benefit of order dated 10.01.2022 passed by Hon'ble Supreme Court in

Suo Motu Writ Petition (C) No.3 of 2020. The impugned order was passed on 10.01.2022 and Hon'ble Supreme Court also passed order on 10.01.2022 whereby it was made clear that period from 15.03.2020 to 28.02.2022 shall stand excluded for the purpose of limitation as may be prescribed under any general or special laws. The relevant extracts of the order read as:

“Taking into consideration the arguments advance by learned counsel and the impact of the surge of the virus on public health and adversities faced by litigants in the prevailing conditions, we deem it appropriate to dispose of the M.A. No.21 of 2022 with the following directions:

I. The order dated 23.03.2020 is restored and in continuation of the subsequent orders dated 08.03.2021, 27.04.2021 and 23.09.2021, it is directed that the period from 15.03.2020 till 28.02.2022 shall stand excluded for the purposes of limitation as may be prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings.

II. Consequently, the balance period of limitation remaining as on 03.10.2021, if any, shall become available with effect from 01.03.2022.”

8. From the above quoted order of Hon'ble Supreme Court, it is quite evident that period from 15.03.2020 to 28.02.2022 shall stand excluded for the purpose of limitation. The Hon'ble Supreme Court has categorically held that even where limitation is prescribed under special law, the period from 15.03.2020 to 28.02.2022 shall stand excluded. The petitioner cannot be denied benefit only on the ground that he has not pointed out orders of Hon'ble Supreme Court in the pleadings or at the

time of oral arguments.

9. In view of Article 141 of the Constitution of India, the judgments/orders of Hon'ble Supreme Court are binding on all courts of India. The directions of Hon'ble Supreme Court are quite lucid. There is no ambiguity. The impugned order was passed on 10.01.2022 and on the same day final order was passed by Hon'ble Supreme Court in Suo Motu petition.

10. In view of above facts and findings, the impugned order is set aside and appeal is restored to its original number and stage before the Appellate Court.

11. The parties are directed to appear before Appellate Court at the first instance on 16.03.2022 and thereafter as directed by the Appellate Court.

12. Pending application, if any, shall stand disposed of.

(JAGMOHAN BANSAL)
JUDGE

02.03.2023
Ali

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