

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

205

CRA-S-2686-SB-2012

Decided on : 13.03.2023

Vishal Gauri

. . . Appellant(s)

Versus

Rakesh Kumar and another

. . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Diwan S. Adlakha, Advocate
for the appellant.

None for respondent No.1

Mr. Pawan K Jhanda, AAG, Haryana
for respondent No.2.

SANJAY VASHISTH, J. (Oral)

After going through the previous orders, on 27.02.2023, this

Court passed the following order:

“Perusal of the file reveals that vide order dated 31.05.2022, fresh notice was issued to respondent No. 1 for 27.10.2022 by coordinate Bench of this Court.

On 27.10.2022, when matter was taken up, following order was passed by co-ordinate Bench of this Court.

“As per report of the Registry, notice issued to respondent No.1 is still unserved as he has left the given address.

Petitioner's counsel to supply fresh and correct address of respondent No.1 and also to file process fee within four weeks from today.

On doing the needful, let fresh notice be issued to respondent No.1 returnable for 18.04.2023. In case, fresh and correct address is not furnished, in that case, Registry to put up this matter in the month of December. ”

Thereafter, again there was a request for seeking time to comply with order dated 27.10.2022 and on 20.12.2022, following order was passed.

“Learned counsel for the appellant seek time to comply order dated 27.10.2022.

List on 06.01.2023.

In case correct address is not furnished till the next date, this Court shall presume that appellant is not interested to pursue the present appeal and this Court proceeds to dismiss the same for non-prosecution. ”

On previous date of hearing, i.e. on 06.01.2023 when matter was taken up, deficiency in regard to the service of respondent No. 1 was noticed and following order was passed:-

“In the present appeal, appellant (complainant) has challenged the judgment of acquittal passed by Ld. Appellate Court, setting aside the judgment of conviction passed by Ld. Trial Court in a case under Section 138 of the Negotiable Instruments

Act, 1881 (in short 'NI Act').

Dispute is in regard to the bouncing of cheque bearing No.801400, dated 18.08.2004, amounting to Rs.1,50,000/-, drawn on Punjab and Sind Bank, Jagadhri.

Finding of acquittal was recorded by the Appellate Court in its judgment dated 29.02.2008. Thereafter, by granting leave, present appeal was admitted vide order dated 31.07.2012.

"Since then, service upon the contesting respondent i.e. respondent No.1, could not be effected for want of correct address.

Noticing the said aspect on 20.12.2022, following order was passed by this Court:-

"Learned counsel for the appellant seek time to comply order dated 27.10.2022. List on 06.01.2023. In case correct address is not furnished till the next date, this Court shall presume that appellant is not interested to pursue the present appeal and this Court proceeds to dismiss the same for non-prosecution."

In the interest of justice, one more opportunity is granted to the appellant, for providing the correct address of respondent No.1, failing which, an appropriate order would be passed by this Court, on the next date of hearing.

List on 27.02.2023."

Today, Mr. Ajay Chauhan, Advocate, appears on behalf of appellants submits that arguing counsel is not available as he is not well, thus, he prays for short adjournment.

In the interest of justice, adjourned to 13.03.2023."

Today again, counsel for the appellant expresses his helplessness for not being able to get the service affected on respondent No.1-Rakesh Kumar, who is contested one.

In view of the reasons already recorded in order dated 27.02.2023 and looking at the helplessness of the counsel for the appellant, who is unable to address the arguments because of not being able to serve the acquitted accused i.e. respondent No.1-Rakesh Kumar, this Court has no other option except to dispose of same for want of prosecution.

Dismissed for want of prosecution.

(SANJAY VASHISTH)
JUDGE

March 13, 2023

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Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No