

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

CRA-1046-SBA-2004

Date of Decision: February 16, 2023

M/s Garg Steel Industries

...Appellant

Versus

M/s Ranjit Forging and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: None for the appellant.

**Mr. Vipul Goel, Advocate,
for Mr. Yogesh Goel, Advocate,
for the respondents.**

SANJAY VASHISTH, J.

There is no representation on behalf of the appellant – M/s
Garg Steel Industries.

Perusal of file reveals that Cheque Nos. 3343524 and
3343525, dated 24.02.1993, amounting to Rs. 35,952 and Rs. 23,868,
respectively, issued by respondent(s), got bounced. Accordingly,
complainant/appellant filed Criminal Complaint No. 170/2/17-4-1993,
RBT No. 31/2/29-9-2001, under Section 138 of the Negotiable
Instruments Act, 1881, in the Court of learned Judicial Magistrate Ist
Class, Ludhiana.

After completion of trial, accused (respondents herein) were
acquitted, vide impugned judgment dated 09.08.2003, passed by learned
Trial Court. Feeling aggrieved complainant – M/s Garg Steel Industries
preferred present appeal through its Manager Satpal Aggarwal.

Alongwith appeal, an application, bearing No. CRM-75-MA-2004, under Section 378 (4) Cr.P.C., was also filed, seeking permission to file the appeal. Vide order dated 11.05.2004, special leave to appeal was granted and appeal was admitted by this Court. Thereafter, either the appellant was seeking adjournment time and again or the case was adjourned for the reason that there was no representation on behalf of the appellant. On 06.08.2018 and 28.08.2018, when appeal came up for hearing, following orders were passed by this Court:

06.08.2018

“Present: None for the appellant

Mr. Yogesh Goel, Advocate for the respondents

In the light of the office report together with the fact that the matter is being unduly prolonged for a motivated cause as the same pertains to the year 2004 necessitates to send the process through concerned SHO, Police Station Division No. 6, Ludhiana with endorsement with red ink to ensure due compliance.

List on 28.8.2018.”

28.08.2018

“Present: None

As per office report, the process issued in the light of orders dated 6.8.2018 has not been received back served or otherwise. Fresh notice to appellant be issued through Commissioner of Police, Ludhiana as well as learned Chief Judicial Magistrate, Ludhiana with endorsement with red ink to ensure due compliance under all circumstances, for 14.11.2018.”

While listing the appeal for 14.11.2018, office appended a note dated 13.11.2018, which says as under:-

“ It is submitted that notice issue to the appellant (M/s

Garg Steel Industries, 569, Vishkarma Street Miller Gang, Ludhiana, through its Manager Satpal Aggarwal) for 14-11-18 through CJM, Ludhiana has been received back with the report (Flag 'A') of son appellant that his father Sh. Satpal Aggarwal has been died on 12-08-2011 (copy of death certificate enclosed) and they don't want to pursue the case further anymore.

Notice issued to the appellant (M/s Garg Steel Industries, 568, Vishkarma Street, Miller Gang, Ludhiana, through its Manager Satpal Aggarwal) for 14-11-18 through Commissioner of Police, Ludhiana has not been received back so far served or otherwise.

It is further submitted that earlier notice issued to the appellant (M/s Garg Steel Industries, 568, Vishkarma Street, Miller Gang, Ludhiana, through its Manager Satpal Aggarwal) through SHO, Police Station Division No. 6, Ludhiana for 28-08-2018 has been received back with the report (Flag 'B') of son of Sh. Satpal Aggarwal (appellant) has been died on 12-08-2011, this case was filed by his father against M/s Ranjit Forging and another and they don't want to pursue further and want to close the matter.

Submitted for 14-11-2018.

Sd/- 13/11/18

Supdt. Criminal

Sd/- 13-11-18

Reader to Hon'ble Court

Perusal of notice dated 05.09.2018, sent by Registry of this Court, for service of appellant, which has been received back through Chief Judicial Magistrate, Ludhiana, shows that it bears a handwritten endorsement, dated 15.10.2018, given by son of the appellant (Satpal Aggarwal), namely, Yogesh Aggarwal, which says as under:-

“Respected Sir,

Sh. SATPAL AGGARWAL (Petitioner) my father died on dated 12/8/2011. I don't want to pursue the case. I have given his death Certificate copy alongwith. Thanks.

Sd/-

*Yogesh Aggarwal
15/10/18”*

Alongwith the said notice, photocopy of one Death Certificate, bearing No. 11814, dated 20.09.2011, issued by Sub Registrar, Municipal Corporation, Ludhiana, is also appended, which shows that Satpal Aggarwal had expired on 12.08.2011. Aforementioned notice dated 05.09.2018, which bears endorsement of son of the appellant, as also report of the concerned Process Serving Agency, as also photocopy of the death certificate, dated 20.09.2011, annexed therewith, are taken on record. It is ordered that said documents be made part of record of this appeal.

In view of above, nothing remains to be adjudicated in the present appeal, and the same is dismissed for non-prosecution.

(SANJAY VASHISTH)
JUDGE

February 16, 2023

Pk Kapoor

Whether Speaking/Reasoned: **YES/NO**

Whether Reportable: **YES/NO**