

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-38652-2023 in/and
CRR-2041-2023 (O&M)
Date of Decision: 19.09.2023

Krishan Mohan Tiwari

. . . . Petitioner

Vs.

M/s Gupta Trading Company

. . . . Respondent

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Mr. Gyan Prakash, Advocate, for the petitioner.

DEEPAK GUPTA, J.

This criminal revision is accompanied by an application under Section 5 of the Limitation Act, 1963 to condone the delay of 266 days in filing this revision.

2. Perusal of the paper-book reveals that petitioner was convicted under Section 138 of the Negotiable Instruments Act, 1881 [for short 'the NI Act'] in criminal complaint bearing CIS No. NACT-999-2015 titled 'M/s Gupta Trading Company Vs. Krishan Mohan Tiwari', by the Court of Id. JMIC, Panipat vide judgment dated 14.11.2017. Vide separate order dated 15.11.2017, he was sentenced to undergo simple imprisonment for a period of six months and also to pay fine of ₹5 lakh, out of which an amount of ₹4.95 lakh was to be paid to the complainant as compensation under Section 357 CrPC. In case of non-payment of fine, the petitioner was further directed to undergo simple imprisonment for a period of two months. Fine was not paid.

3. Against the aforesaid judgment of conviction and order of sentence, petitioner preferred appeal, which has been dismissed by the Court of Id. Additional Sessions Judge, Panipat vide judgment dated 19.09.2022.

4. What is relevant and important to notice is that aforesaid judgment, dismissing the appeal of the petitioner, was announced in the presence of counsel for the petitioner. As petitioner (appellant before the Court of Id. ASJ, Panipat) was not present at the time of pronouncement, so direction was given to the trial Court to issue process against him to apprehend him and to implement the judgment of conviction and order of sentence.

5. It is against the aforesaid dismissal of his appeal against the conviction, that petitioner filed this revision.

6. In the application for condoning the delay of 266 days, it is contended that petitioner approached the undersigned i.e., counsel for the petitioner in the first week of October 2022, and the petition was drafted on the very next date and the paper book was completed in all respect, but the petitioner failed to supply the required documents. Petitioner assured to deliver the same within time, but he failed to do so. It is only on supplying of the required documents that this petition has been filed and this has caused a delay of 266 days, which is claimed to be *bona fide*.

7. After hearing Id. counsel for the petitioner, I find absolutely no merit in the application.

8. The conduct of the petitioner is required to be noticed, whose appeal against conviction was dismissed by the Ist Appellate Court on 19.09.2022. He was required to surrender before the Court concerned to undergo the sentence imposed upon him. He failed to do so. Even if he wanted to challenge the concurrent finding of conviction against him, he did not provide the requisite documents to his counsel within time, causing the delay of 266 days in filing the revision. The reasons disclosed in the application for condonation of delay are found to be absolutely not *bona fide* in any manner whatsoever.

9. As such, finding no merit in the application, the same is hereby dismissed. Consequent thereto, revision is also dismissed.

(DEEPAK GUPTA)
JUDGE

19.09.2023

Vivek

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| 1. Whether speaking/reasoned? | Yes/No |
| 2. Whether reportable? | Yes/No |