

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-1791-2023 (O&M)
Date of Decision: 15.01.2024
2024: PHHC: 005085

Surinder Kumar

. . . . Petitioner

Vs.

M/s Kasturi Lal & Sons through its Proprietor

. . . . Respondent

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Mr. Pardeep Kumar Kapila, Advocate, for the petitioner.

Mr. Jasdeep Singh Kailey, Advocate, for the complainant.

DEEPAK GUPTA, J.

CRM-1326-2024

This is an application for preponing the main case on the ground that the matter has been compromised.

For the reasons as mentioned in the application, the same is allowed and the date of hearing in the main case (CRR-1791-2023) is preponed and the same is taken on board today itself.

CRR-1791-2023 (O&M)

Respondent-firm M/s Kasturi Lal & Sons through its proprietor Vijay Kumar had filed a complaint bearing CIS No. NACT/82/2013 against Surinder Kumar (petitioner herein) to prosecute him under Section 138 of the Negotiable Instruments Act, 1881 [for short 'the NI Act']. Petitioner was tried and ultimately, conviction was recorded vide judgment dated 18.12.2015. Petitioner was sentenced to undergo simple imprisonment for a period of six months and to pay fine of ₹1,000/- with default sentence.

2. Against the aforesaid judgment of conviction and order of sentence both dated 18.12.2015, petitioner preferred an appeal in the Court of Sessions. Said appeal was heard in the absence of the petitioner though in the presence of his counsel and the same was dismissed vide judgment dated 22.07.2019. Since the petitioner was absent at the time of pronouncement of judgment of dismissal of the appeal, trial Court was directed to proceed further in the matter, for arrest of the appellant-accused for his undergoing the imposed sentence as per the rules.

3. Present petition has been filed challenging the aforesaid judgment dated 22.07.2019, whereby the order of conviction passed by Id. SDJM, Sardulgarh has been confirmed.

4. It is contended by Id. counsel that petitioner is a poor person. He was told that matter has been compromised and so, was not required to come to the Court and it is because of this misunderstanding that he did not appear. He later on came to know about the matter, when proclamation proceedings were initiated against him by the Magistrate. Later on compromise (Annexure P3) was executed between the parties on 02.06.2023.

5. As the facts noticed above would reveal that the appeal against the conviction was dismissed on 22.7.2019. Petitioner did not surrender before the trial Court concerned. It is only during pendency of this petition that petitioner surrendered before the trial Court on 01.12.2023.

6. The contention of Id. counsel for the petitioner to the effect that matter has since been compromised and the offence in question being compoundable, so the Court should take lenient view, has no merit. The Court cannot allow people to make a mockery of law. After recording of the

conviction way back on 18.12.2015 and dismissal of the appeal on 22.07.2019, petitioner kept on sleeping over the matter for almost four years and did not even bother to surrender before the Court. The compromise (Annexure P3) has been effected amongst the parties on 02.06.2023 and therefore, the contention of the petitioner that he was told that he need not to appear on account of compromise, has absolutely no merit.

7. In the aforesaid facts and circumstances, simply because the matter has been compromised later on between the parties, cannot be a ground to accept the revision on basis of compromise.

Dismissed.

Pending application(s), if any, stand disposed of.

15.01.2024

Vivek

(DEEPAK GUPTA)
JUDGE

- 1. Whether speaking/reasoned?
- 2. Whether reportable?

Yes
No