

CRM-M-33850-2023

Neutral Citation : 2023:PHHC:112523

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

CRM-M-33850-2023 (O&M)

Date of decision : 28.08.2023

Dheeraj Bansal

...Petitioner(s)

Versus

M/s Mehar Chand Jewellers and another

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Dr. Rau P.S. Girwar, Advocate for the petitioner.

MAHABIR SINGH SINDHU, J.

Present petition has been filed under Section 482 of the Code of Criminal Procedure (for short, '*the Cr.P.C.*') for issuance of a direction to dispose off the pending application for cancelling the suspension of sentence of accused/respondent in a time-bound manner.

2. This Court on 17.07.2023, passed the following order:-

“Contends that against the judgment of conviction & order of sentence dated 28.01.2021, passed by learned Judicial Magistrate, First Class, Bathinda, an appeal was preferred by respondent before learned Additional Sessions Judge, Bathinda and which had been admitted on 18.02.2021 while suspending the sentence. Further contends that learned Appellate Court directed the respondent to deposit 20% of the fine/compensation awarded by learned trial Court within 60 days from that date, i.e. 18.02.2021; but despite availing more than 25 adjournments, no compliance has been made by the respondent regarding deposit of 20% compensation, till date.

Notice of motion.

Process dasti as well.

Let all the zimni orders, right from 18.02.2021 uptill 05.05.2023, be brought to the notice of learned District & Sessions Judge, Bathinda, and report be submitted to this Court for further consideration.

Posted on 28.08.2023.

*Be shown in the **Urgent** list.*

Registry will send a copy of this order to the quarter concerned, forthwith.

3. In pursuance of the aforesaid order, a detailed inquiry report from learned District & Sessions Judge, Bathinda, has been received and operative part of the same reads as under:-

In furtherance of the aforesaid directions, the record of the criminal appeal titled as 'M/s Mehar Chand Jewellers Versus Dheeraj Bansal' CIS No.CRA/15/2021, has been summoned from the concerned Appellate Court. Perusal of the record reveals that appeal was initially received by way of entrustment by the Court of Ms. Sanjeeta, the then Additional Sessions Judge, Bathinda on 18.02.2021 and vide detailed order, the sentence awarded to the appellant was suspended subject to furnishing bail bonds in the sum of Rs.30,000/- with one surety in the like amount, to the satisfaction of learned Trial Court/Duty Magistrate and in compliance with the provisions of Section 148 of the Negotiable Instrument (amended 2018) Act, the appellant-accused was further directed to deposit 20% of the fine/compensation amount awarded by the Trial Court within 60 days and the case was adjourned to 11.05.2021. The gist of the proceedings carried out in this matter is tabulated as under:-



Sr.No.	Date of hearing	Proceedings carried out by the Court concerned
1	18.02.2021	Appeal filed. Entrusted to the Court of Ms.Sanjeeta, former Additional Sessions Judge, Bathinda. Notice of the appeal issued for 11.05.2021. The sentence passed by the learned Trial Court was suspended on furnishing bail bonds and surety bonds The appellant was directed to deposit 20% of the fine amount/compensation amount awarded by the trial Court within sixty days in the shape of FDR in a nationalized bank to be released to the complainant on the directions passed by the Court during the pendency of the appeal.
2	11.05.2021	Case was simply adjourned due to restrictions of covid-19 pandemic.
3	14.09.2021	Presence of the counsel for the respondent is marked in the court proceedings. An application for cancellation of order of suspension of sentence of the appellant moved on the ground that he failed to deposit 20% of the amount of cheque. Notice of the application was given to the appellant.
4	06.12.2021	On an application personal presence of appellant was exempted and case was fixed for filing reply to the application for cancellation of order of suspension of sentence.
5	14.01.2022	On an application personal presence of appellant was exempted and case was fixed for filing reply to the application for cancellation of order of suspension of sentence.
6	04.03.2022	On an application personal presence of appellant was exempted and case was fixed for filing reply to the application for cancellation of order of suspension of sentence, subject to last chance.
7	25.03.2022	On an application personal presence of appellant was exempted and case was fixed for filing reply to the application for cancellation of order of suspension of sentence and consideration on the same as well.
8	22.04.2022	Appellant has shown his inclination to settle the matter with respondent by alienating his plot and counsel for the respondent also requested for adjournment for two weeks so that parties can settle the matter amicably and the matter was adjourned for awaiting outcome of compromise.
9	07.05.2022	Case was received by transferred by the Court of Shri Hira Singh Gill, Additional Sessions Judge, Bathinda, and was adjourned for awaiting outcome of compromise, if any and arguments.
10	22.07.2022	On an application personal presence of appellant was exempted and case was fixed for filing reply to the application for cancellation of order of suspension of sentence.
11	05.08.2022	Case was fixed for filing reply to the application for cancellation of order of suspension of sentence with the direction to the appellant to come present in the Court on the next date of hearing.
12	23.08.2022	On an application personal presence of appellant was exempted and case was fixed for filing reply to the application for cancellation of order of suspension of sentence.
13	16.09.2022	Case was fixed for filing reply to the said application and

		consideration on the same as well.
14	03.10.2022	Reply to the application not filed and the case was adjourned for filing reply to the said application subject to last opportunity.
15	18.10.2022	Reply to the application for cancelling the suspension of sentence order was filed and case was adjourned for consideration.
16	11.11.2022	Appellant came in person and on request of proxy counsel case was adjourned for consideration on the said application.
17	16.12.2022	On an application, personal presence of appellant was exempted and request of the proxy counsel for the parties, matter was posted for arguments.
18	06.01.2023	The Presiding Officer Shri Hira Singh Gill, Additional Sessions Judge, Bathinda, was on casual leave and the matter was put up before the Duty Judge and was adjourned for arguments.
19	27.01.2023	On an application personal presence of the appellant was exempted and the matter was adjourned for consideration on application for cancellation of suspension of sentence.
20	10.02.2023	On joint request of the counsel for the parties, matter was adjourned for arguments.
21	24.02.2023	Case was not listed for arguments and was adjourned for arguments.
22	03.03.2023	On an application, personal presence of the appellant was exempted and matter was adjourned for arguments.
23	17.03.2023	Case was not listed for arguments and was adjourned for arguments.
24	31.03.2023	Case was not listed for arguments and was adjourned for arguments.
25	01.04.2023	On an application, personal presence of the appellant was exempted and matter was adjourned for arguments.
26	21.04.2023	Arguments were partly heard and on request, matter was adjourned for remaining arguments.
27	25.04.2023	On an application, personal presence of the appellant was exempted and matter was adjourned for remaining arguments.
28	05.05.2023	Case was received by transferred by the Court of Shri Mahesh Grover, Additional Sessions Judge, Bathinda. On an application personal presence of the appellant was exempted and matter was adjourned to 29.08.2023 for arguments.

After going through the zimni orders in judicial file mentioned above, it appears that the application for cancelling the suspension of sentence order dated 18.02.2021 remained pending for more than nine occasions for filing reply by the appellant-accused and ultimately the reply was filed by the appellant-accused on 18.10.2022. After that matter remained pending for consideration on the said application and thereafter the

matter was posted for arguments on main appeal without disposing of the application mentioned above.”

4. A perusal of the above extract clearly reveals that the officers who remained associated with the matter, took it leisurely and instead of treating the appeal as “judicial proceedings”, made it virtually a “fairy tale”.

5. In view of the above, there is no option, except to dispose off the present petition with following observations:-

(i) Learned Appellate Court shall ensure that appellant is present on each and every date of hearing.

(ii) In view of the controversy involved, the appeal be decided expeditiously, in accordance with law.

(iii) Progress report be sent to the Registry by 30.09.2023.

6. A copy of the order be sent to the Director, Chandigarh Judicial Academy for sensitizing the officer(s) in such like case(s) to save the precious Court time; rather than granting adjournments in routine.

7. Ordered accordingly.

28.08.2023

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**(MAHABIR SINGH SINDHU)
JUDGE**

Whether speaking/ reasoned : Yes / No

Whether reportable : Yes / No