



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

245

CRM-A-1728-MA-2016(O&M)
Date of decision: 19.05.2025

Balbir Singh ...Appellant

Versus

Karam Singh ...Respondent

CORAM: HON'BLE MR. JUSTICE H.S. GREWAL

Present : Mr. Pushp Jain, Advocate, for the appellant.

None for the respondent.

H.S. GREWAL, J. (Oral)

CRM-29566-2016

This is an application for condoning the delay of 1223 days in filing the instant appeal.

In view of the averments made in the application, the prayer made in the application is allowed and delay of 1223 days in filing the appeal is allowed.

Application stands disposed of.

Main Case

1. The present appeal has been filed impugning the order dated 02.03.2013 passed by the learned Judicial Magistrate Ist Class, Amritsar, whereby, complaint filed on behalf of the appellant has been dismissed for non-prosecution and the accused has been discharged.

2. Today no one has appeared on behalf of respondent, however, vide order dated 09.03.2023, respondent had been served.

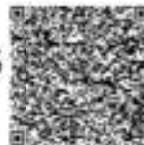
3. It is stated that appellant had filed above mentioned complaint dated 24.08.2011 following the dishonour of cheque amounting to



Rs.1,66,800/- issued by the respondent. The respondent did not appear despite the service and was declared as proclaimed offender vide order dated 10.01.2012 and the complaint was also consigned to the record room since the accused could not be traced. Thereafter, the respondent put in his appearance and was granted bail, however notice was issued to the appellant wherein the said notice was never served upon the appellant. The trial Court vide order dated 02.03.2013 dismissed the complaint for non-prosecution even in the absence of the complainant. It is stated by the counsel for the appellant that he was not aware that the respondent had appeared in Court and proceedings had been started on his complaint. The appellant challenged the order dated 02.03.2013 through Court of Sessions in revision under Section 397 Cr.P.C. However, the same was dismissed as not being maintainable. Thereafter, the appellant has filed the present appeal.

4. From the perusal of the file and impugned order, it is clear that the respondent had been declared as proclaimed offender and later he surrendered before the Court on 02.03.2013, while the complaint was dismissed for non-prosecution. While holding that the complainant has not appeared for the last 8 consecutive hearings, the plea of the appellant that he was never served and he had made all endeavor to prosecute the respondent and moreover, the respondent had earlier jumped the proceedings and was declared proclaimed offender; when he appeared, proper notice was not received by present appellant, as a result, he could not appear before the Court and contest his complaint.

4. In the light of the above, impugned order dated 02.03.2013 is set aside and complaint is restored to its original number and appellant is directed



to appear before the Court and trial Court is directed to serve the respondent with fresh notice and proceed with the complaint.

(H.S. GREWAL)
JUDGE

19.05.2025
anil

Whether speaking/reasoned : Yes / No
Whether reportable : Yes / No