

Cr. Revision No.674 of 2023

22.12.2023 Present: Mr. Ashwani Kaundal, Advocate, vice
Mr. Maan Singh, Advocate, for the
petitioner.

Cr.MP No.4805 of of 2023

An objection was raised by the Registry that a certified copy of the impugned judgment of the learned Trial Court is not on record. Consequently, an application seeking exemption from filing the certified copy of the impugned judgment of conviction and order of sentence passed by the learned Trial Court was filed. It was submitted that the objection is not correct inasmuch as the High Court of Himachal Pradesh (Appellate Side) Rules, 1997 (hereinafter the Rules) do not require the filing of the certified copy but only a copy. This submission has some force. Chapter 5 of the Rules deals with the institution of the proceedings. Chapter 5 (F) deals with Criminal Revisions. Rule 3 provides that every petition for revision of an order shall be accompanied by a copy of the order in respect of which such application is made. Rule 4 provides that in the case of a petition for revision of the order of an Appellate Court, a copy of the order of the

Court of the first instance shall also be filed. Chapter 5 (E) deals with Civil Revisions and Rule 2 mentions that a certified copy of the decree or order which is to be revised shall accompany the Civil Revision. Chapter 5 (G) deals with application for review and Rule 2 mentions that an application for review shall be accompanied by a certified copy of the judgment sought to be reviewed.

2. A perusal of the Rules clearly shows that a certified copy has been mentioned in respect of Civil Revisions, and an application for review but only a copy and not a certified copy has been mentioned in respect of Criminal Revisions. The omission of the words certified in 5 (F) appears to be deliberate and the submission that the criminal revision is not required to be accompanied with a certified copy but only a copy is accepted. Consequently, the objection of the Registry is overruled and the application seeking exemption from filing a certified copy is dismissed as infructuous.

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Issue notice to the respondent,
returnable within four weeks, on taking steps
within one week.

Cr. MP No. 4804 of 2023

Notice in the aforesaid terms.

In the meantime, keeping in view the nature of the offence punishable under Section 138 of the Negotiable Instruments Act, execution and operation of the substantive sentence of imprisonment awarded by the learned Trial Court on 1.4.2023 as affirmed by the learned Appellate Court on 4.10.2023, in Criminal Appeal No.25 of 2023, is ordered to be suspended subject to deposit of 20% of the compensation amount and furnishing of personal and surety bonds in the sum of Rs.25,000/- each to the satisfaction of the learned Trial Court within four weeks with an undertaking to appear and receive the sentence, in case of dismissal of the present revision.

Reply, if any, be filed on or before the next date of hearing.

(Rakesh Kainthla)
Judge

December 22, 2023
(veena)