

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

**CRM-A-928-MA of 2012**

**DATE OF DECISION :- January 20, 2020**

**Nandal Service Station**

**...Appellant**

**Versus**

**Satyawan**

**...Respondent**

**CORAM: HON'BLE MR. JUSTICE H.S. MADAAN**

**Present:-** Mr. Dinesh Arora, Advocate for the petitioner.

Mr. Akashdeep Singh, Advocate for the respondent.

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A complaint under Section 138 of the Negotiable Instruments Act filed by complainant Nandal Service Station, Rohtak Hisar Road against accused Satyawan, on completion of trial, was dismissed by learned Judicial Magistrate Ist Class, Rohtak vide judgment dated 7.9.2012 for the reason that no offence under Section 138 of the Negotiable Instruments Act was made out since the complainant had not filed complaint after service of first notice and had rather issued second notice and thereafter filed the complaint in question.

The complainant has approached this Court challenging the said judgment seeking special leave to appeal in terms of Section 378(4) Cr.P.C.

On being given notice respondent-accused has appeared through counsel. The application was allowed and leave to appeal was granted on 21.8.2015.

I have heard learned counsel for the parties besides going through the record.

Learned counsel for the appellant-complainant has submitted that as per latest law laid down by the Apex Court the criminal complaint under Section 138 of the Negotiable Instruments Act based on second statutory notice is maintainable. In support of his contention he has referred to judgment M/s Sicagen India Ltd. Vs. Mahindra Vadineni and Ors. 2019 (1) R.C.R. (Criminal) 788. Learned counsel for the respondent has very fairly conceded this legal position.

It being so, the complaint in question is held to have been wrongly dismissed vide impugned judgment. Therefore, the impugned judgment cannot survive and deserves to be set aside. As such the appeal is accepted, the impugned judgment is set aside and case is remanded to the trial Magistrate for its disposal on merits afresh after hearing learned counsel for the parties and going through the record.

The parties through their counsel are directed to appear before the trial Magistrate on 20.2.2020. The Registry is directed to send back the record of the case to the trial Magistrate at the earliest.

**(H.S. MADAAN)**  
**JUDGE**

**January 20, 2020**

*p.singh*

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No