

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

CRM No.A-1536- MA of 2014(O&M)

Date of decision: 20.02.2015

M.V.Electosystems Private Limited

.....Petitioner

versus

M/s Xenitis Infotech Limited and others

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.Rohit Rana, Advocate for the applicant

- 1. Whether Reporters of Local Newspapers may be allowed to see the judgment ?*
- 2. To be referred to the Reporters or not ?*
- 3. Whether the judgment should be reported in the Digest?*

Kuldip Singh, J. (Oral)

CRM No.29574 of 2014

As per the report notice issued to the respondents for the last date have been received back with the report of refusal. Therefore, the respondents be proceeded ex-parte.

For the reasons mentioned in the application, it is allowed and delay of 50 days in filing the appeal stands condoned.

CRM A -1536-MA of 2014

Impugned in the present appeal is the order dated 3.6.2014 passed by learned Judicial Magistrate 1st Class, Faridabad, vide which, complaint under Section 138 of Negotiable Instruments Act, 1881 was dismissed in default for want of prosecution.

I have carefully gone through the impugned order.

It comes out that on the said date, counsel for the complainant was present and therefore, the complaint could not have been dismissed in default. The learned Magistrate has held that there is want of prosecution on the ground that no serious effort is being made to effect service upon the accused.

In this case, dasti summons were not taken by the complainant. However, notice were issued through registered post. Once, the summons have been issued, it is the duty of the Court to procure the service of the accused. The complainant is not required to get the service effected on the accused. Therefore, the impugned order is not sustainable in the eyes of law and the same is accordingly set aside. The complaint titled as M.V. Electrosystems Privated Limited v. M/s Xenitis Infotech Limited and others is restored. The learned Magistrate is directed to proceed further in the matter.

The appeal is accordingly allowed.

20.02.2015

gk

(Kuldip Singh)
Judge