

**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT
CHANDIGARH**

CRM-M-7092-2015
Date of decision: 28.9.2015

Devendra Kumar

...Petitioner

Versus

Vinod Bhadana

...Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

1. To be referred to the Reporters or not ?
2. Whether the judgment should be reported in the Digest ?

Present: Mr. Vikram Singh, Advocate for the petitioner.
Mr. Ashwani Bakshi, Advocate for the respondent.

RAMESHWAR SINGH MALIK, J. (Oral)

Petitioner, by way of instant petition under Section 482 Cr.P.C., seeks quashing of order dated 9.7.2014 (Annexure P-1), whereby complaint of the petitioner filed under Section 138 of the Negotiable Instruments Act, 1881 ('NI Act' for short) was dismissed for want of prosecution.

Notice of motion was issued.

After hearing learned counsel for the parties and going through the impugned order, this Court is of the considered opinion that the present petition deserves to be accepted. It is so said, because it is a matter of record that complaint filed by the petitioner has been dismissed for want of prosecution and not on merits. It is the settled principle of law that courts must make an endeavour to decide the matter on merits instead of technicalities including for want of prosecution. No litigant should be forced to go home with the grouse that he was not granted due opportunity to put up his case before the court. It seems that the learned trial Magistrate has proceeded on a misconceived approach, while passing the impugned order and the same cannot be sustained.

No other argument was raised.

In view of what has been discussed hereinabove, the impugned order dated 9.7.2014 (Annexure P-1) is hereby set aside. The complaint filed by the petitioner under Section 138 of the NI Act stands restored to its original number. The case is remanded back to the learned trial Court with a direction to decide the same on merits, in accordance with law.

Resultantly, with the above-said observations made and directions issued, the present petition stands disposed of.

28.9.2015
mks

(RAMESHWAR SINGH MALIK)
JUDGE