

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

**C.R.M-A No.1602-MA of 2014
Date of Decision : 06.12.2016**

M/s Mohini Exports

..... Appellant

Versus

M/s Luxmi Engineering Works and another

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Rakesh Gupta, Adv. for
Mr. Harsh Garg, Advocate
for the appellant.

Mr. Hemender Goswami, Advocate
for the respondents.

AJAY TEWARI, J. (Oral)

This is an application under Section 378(3) of the Cr.P.C.
for permission to file an appeal against order of acquittal.

For the reasons recorded, the application is allowed.
Leave granted. Registry is directed to assign the number of appeal.

This appeal has been filed against the order of the Court
below dismissing the complaint in default for want of prosecution.

Learned counsel for the appellant has argued that there is
no doubt that the appellant-complainant did not appear on two dates but
the fact is that the respondents were also not appearing and had been
declared as proclaimed offenders and the cheque amount was

Rs.4,16,000/- and in these circumstances this is a fit case where the

impugned order can be set aside and appellant may be permitted to prosecute his complaint.

Learned counsel for the respondents has argued that actually the appellant had remained absent on two dates. However, he is not in a position to deny the fact that at that time his client had been declared as proclaimed offender.

In this view of the matter, I do not deem it appropriate to deny the prayer made. In the circumstances, the impugned order is set aside and the matter is remitted back to the trial Court. The trial Court is directed to proceed from the stage at which it was pending and decide the case on merits. The parties through counsel are directed to appear before the trial Court on 06.02.2017.

Appeal stands disposed of.

Since the main case has been decided, the pending criminal miscellaneous application, if any, also stands disposed of.

December 06, 2016
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(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No