

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

CRM-A-No.1846-MA of 2015
DATE OF DECISION : 1st SEPTEMBER, 2016

Sandeep Singh

.... Appellant

Versus

Gurjit Kaur

.... Respondent

CORAM : HON'BLE MR. JUSTICE A. B. CHAUDHARI

* * * *

Present : Mr. Upender Prasher, Advocate for the applicant-appellant.

Mr. Varun Sharma, Advocate for the respondent.

* * * *

A. B. CHAUDHARI, J. (ORAL)

Rule heard forthwith with the consent of the rival parties.

In a complaint under Section 138 of the Negotiable Instruments Act (in short, the NI Act), for an amount of ₹2,00,000/-, the applicant-appellant remained absent and did not grab the opportunity to lead evidence before the Court. On the date when the complaint was dismissed for his non-appearance the reason for non-appearance was that he was suffering from fever. Since the same was not supported by any medical certificate, the trial Court rejected his application.

Looking at the impugned order, no fault can be found out with the same but then the applicant-appellant now makes statement that henceforth he would not take any adjournment and would appear before the court below and complete the evidence with promptitude.

The learned counsel for the respondent-accused has supported the impugned order and has submitted that the accused is

unnecessarily being harassed by the applicant-complainant herein and therefore, the complaint should not be restored to the file.

As observed by this court in the earlier paragraph, no fault can be found out with the order passed by the trial Court rejecting the application for adjournment as the applicant-appellant was given sufficient opportunities but he did not avail of those opportunities. But then the case of the applicant-appellant should not be buried without being tried.

In that view of the matter by way of last chance to the applicant-appellant, I think in the interest of justice, he should be allowed to lead the evidence since he has undertaken to participate in the proceedings with promptitude. However, the respondent-accused should be compensated with order of costs. In that view of the matter I make the following order:

ORDER

- (i) The CRM-A-No.1846-MA of 2015 is allowed.
- (ii) Impugned order is set aside.
- (iii) The petitioner is allowed last opportunity to participate in the trial and complete his evidence.
- (iv) The petitioner shall pay costs in the sum of ₹10,000/- to the respondent-accused as a pre-condition.

1ST SEPTEMBER, 2016
'raj'

(A. B. CHAUDHARI)
JUDGE

Whether speaking/reasoned:	Yes	No
Whether Reportable:	Yes	No