

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

**CRM-A No.2082-MA of 2015 (O&M)
Date of Decision: March 30, 2016**

Timcy Khanduja

.... Applicant

vs.

Vinay Rana

.... Respondent

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Rajesh Lamba, 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-42365-2015

There is delay of 21 days in filing the application for grant of leave to appeal.

For the reasons mentioned in the application, delay of 21 days in filing the application for grant of leave to appeal is condoned, subject to all just exception.

Application stands disposed of.

Main Case

It comes out that the present applicant filed a criminal complaint under Section 138 of the Negotiable Instruments Act, 1881. The case was at the stage of cross-examination of witnesses of the complainant on 20.07.2015. The complainant became absent on 20.07.2015. Therefore, the court issued notice to the complainant for 30.09.2015. On the said date also, the complainant did not appear despite service. Accordingly, the complaint was dismissed for non-prosecution.

I have heard learned counsel for the applicant and have also carefully gone through the case file.

Learned counsel for the applicant states that the applicant was assured by the accused that he will make good the payment of the cheque amount. Consequently, he asked the counsel not to appear in the matter.

I am of the view that if the accused had assured to make the payment, the same should have been brought on file. The appearance in the court should not have been stopped. In this case, the complainant suddenly became absent. Even, despite notice, he did not appear. Therefore, the lower court was justified in dismissing the complainant for non-prosecution. Thus, there is no illegality or infirmity in the impugned order dated 30.09.2015 passed by learned Judicial Magistrate 1st Class, Gurgaon.

Accordingly, the application for grant of leave to appeal is dismissed.

March 30, 2016
sarita

(KULDIP SINGH)
JUDGE