

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

CRM-M-1533 of 2016

Date of Decision: March 16, 2016

Satwinder Kaur

...Petitioner

Versus

Ravinder Verma

...Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Sahil Soi, Advocate
for the petitioner.

FATEH DEEP SINGH, J.

In this petition under Section 482 Cr.P.C. the petitioner Satwinder Kaur, who happens to be the complainant in a criminal complaint preferred under Section 138 of Negotiable Instruments Act has sought to challenge the impugned orders dated 18.11.2015 passed by the learned Judicial Magistrate 1st Class, Chandigarh (Annexure P/1) whereby, her complaint stood dismissed for non-prosecution.

Heard. Upon presentation of the complaint and after completion of the preliminary evidence when the matter was listed for appearance of the accused consequent upon passing of summoning orders dated 31.10.2014 and when on account of non-service bailable warrants were issued against the accused and, thereafter, vide orders dated 26.8.2015 learned Judicial Magistrate 1st Class, Mohali with whom initially the complaint was pending holding that learned Chief Judicial Magistrate, Chandigarh had the jurisdiction to entertain and try the complaint had sent the matter to the Court at Chandigarh for 25.9.2015. It was on 18.11.2015 the impugned orders were passed.

Thus, in the light of the contentions of the learned counsel for the petitioner that on the date when the impugned orders were passed the matter was only listed for appearance of the accused and that the complainant had nothing material act to perform certainly is reflected from the records. Though, the contention that the Court ought to have waited for the complainant after issuance of notice consequent upon transfer of the case is highly uncalled for as the order of the transfer itself reflects the day on which the matter was to be put up before the transferee Court. Though, the Magistrate has discretionary power to dismiss or not to dismiss the case on account of want of presence of the complainant, however, as has been laid down in **AIR 1998 SC 596 Associated Cement Company Limited vs. Keshvanand** that since the presence of the complainant on the date was unnecessary it was highly undesirable to resort to such a means when the complainant has been pursuing her relief diligently for the last more than one year.

Thus, in the totality of what is reflected from the records and keeping in view the ends of justice in mind the impugned orders dated 18.11.2015 are hereby set aside and complaint is ordered to be registered. Trial Court is directed to proceed ahead into the matter as per law.

(FATEH DEEP SINGH)
JUDGE

March 16, 2016
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