

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

CRM No.M-17847 of 2015 (O&M)

Date of Decision:- October 04, 2016

Inderpal Singh

...Petitioner

VERSUS

Bawa Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Amandeep Singh Manaise, Advocate
for the petitioner.

None for the respondent.

INDERJIT SINGH, J.

The petitioner has filed this petition under Section 482 Cr.P.C. against respondent Bawa Singh, for quashing of impugned order dated 28.07.2014 passed by learned Judicial Magistrate Ist Class, Gurdaspur, vide which the application filed by the petitioner for restoration of complaint under Section 138 of the Negotiable Instruments Act has been declined and impugned order dated 12.06.2014 passed by learned JMIC, Gurdaspur, dismissing the complaint bearing No.44 dated 06.05.2014 in default.

Notice of motion was issued but none appeared on behalf of the respondent despite service.

I have heard learned counsel for the petitioner and have gone through the record.

From the record, I find that a complaint was filed by Inderpal

Singh against Bawa Singh under Section 138 of the Negotiable Instruments

Act. As per the impugned order dated 12.06.2014, the case was called several times but none appeared on behalf of the complainant and learned Magistrate held that it seems that complainant does not want to proceed with the present application, as such, the application is dismissed in default for want of prosecution. File be consigned to record room.

The perusal of the impugned order dated 12.06.2016 nowhere shows that the complainant did not come on the earlier dates also or the absence of the complainant was intentional or malafide. It is now settled law that the Court should not go into the technicalities of law and should do substantial justice between the parties as far as possible. In the present case, summoning order has not been passed so far, as argued. As the case is at preliminary stage, by non-appearance, the complainant is not going to be benefitted in any way. There is also nothing in the order that complainant is grossly negligent in pursuing the complaint or has malafide intention for absenting from the Court.

In view of the above discussion, I find that to do substantial justice, it is necessary that the complaint should be restored and be proceeded as per law. Therefore, finding merit in the present petition, the same is allowed. The complaint bearing No.44 dated 06.05.2014 filed by the present petitioner is restored and learned JMIC, Gurdaspur is directed to proceed with the complaint as per law. The petitioner is directed to appear before learned JMIC, Gurdaspur on 04.11.2016.

October 04, 2016
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No