

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

CRA-AS-152-2017 (O&M)

DATE OF DECISION : 15th SEPTEMBER, 2017

Ravinder Sachdeva

.... Appellant

Versus

Shri Om Parkash

.... Respondent

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

* * * *

Present : None for the appellant.

Mr. Saurabh Arora, Advocate for the respondent.

* * * *

A. B. CHAUDHARI, J. (ORAL)

CRM-A-1481-MA-2014

None has appeared for the appellant today.

Leave to appeal is granted.

The appeal be assigned number.

CRA-AS-152-2017

This is appeal against order dated 22.07.2014 dismissing the complaint in default for non appearance of the appellant-complainant.

Mr. Saurabh Arora, Advocate (legal aid counsel) put in appearance on behalf of the respondent and filed his power of attorney. He seeks adjournment. However, looking to the fact that notice of motion was issued on 28.10.2014 and looking to the further fact that the trial Court did not decide the complaint on merits but in default of the complainant, I think there is no point in adjourning the proceedings.

Perused the entire record, including the impugned order. The complainant filed complaint with the trial Court for dishonour of cheque in the sum of ₹1,05,000/-. The trial Court upon recording verification statement issued process. Thereafter, the accused appeared before the trial Court and was admitted to bail. The case went on before the trial Court but when it was fixed for evidence on 22.07.2014 the case was called out thrice i.e. at 10.00am, 12.45pm and 3.00 pm. However, despite the several calls, the complainant did not appear. Therefore the Court have no option but to dismiss the same in default.

In my opinion, undoubtedly the complainant is at fault in not attending the Court for prosecuting his own complaint. However there is no point in burying the case without being tried on merits but then the respondent-accused who is represented by counsel, will have to be compensated by way of costs since the complaint was filed in the year 2013 and number of years have passed.

In that view of the matter, the following order is passed:

ORDER

- (i) CRA-AS-152-2017 is partly allowed.
- (ii) Impugned order dated 22.07.2017 passed by JMFC, Faridabad dismissing the complaint, is quashed and set aside.
- (iii) Proceedings of the complaint are restored to the file of the learned Magistrate, subject to deposit of costs of ₹10,000/- payable by the appellant herein to the accused on his appearance before the trial Court.

- (iv) The parties are directed to appear before the trial Court on 09.10.2017 on which date the trial Court shall seek compliance of this order regarding deposit of costs amount and proceed further in accordance with law.

15th SEPTEMBER, 2017
'raj'

(A. B. CHAUDHARI)
JUDGE

Whether speaking/reasoned: *Yes* *No*

Whether Reportable: *Yes* *No*