

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

CRA-AS-No.200 OF 2017
DATE OF DECISION : 10TH NOVEMBER, 2017

M/s. Jagdish Chand

.... Appellant

Versus

Kunal Prop. Of Guru Kirpa Furniture House

.... Respondent

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

* * * *

Present : Mr. Kanwar Pahul Singh, Advocate
for the applicant-appellant.

Mr. Bikramjit Arora, Advocate for the respondent.

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A. B. CHAUDHARI, J. (Oral)

CRM-A-32-MA-2016

This is application for leave to appeal against the impugned judgment and order of acquittal.

Rule.

Heard forthwith.

Leave to appeal is granted.

Appeal be registered as appeal against acquittal, which is taken up for hearing today itself.

CRA-AS-No.200 OF 2017

Heard.

Admitted.

Taken up for hearing today itself in view of short controversy involved.

What is under challenge is order dated 03.11.2016 made by learned JMFC, Amritsar by which complaint filed by the applicant-

appellant was dismissed. Indeed the applicant-complainant was at fault in not appearing before the trial Court when the trial had commenced. On two occasions the Court awaited for the complainant but to no use. Therefore, the complaint was dismissed in default on 03.11.2016.

Learned counsel for the respondent vehemently opposed the appeal and submitted that for the fault of the complainant the respondent cannot be harassed.

Having regard to the entire fact, I find that indeed the applicant-complainant has been at fault and therefore respondent shall be compensated by way of order of costs. In that view of the matter, I am inclined to allow the appeal partly.

In the result, I make the following order:

ORDER

- (i) The CRA-AS-No.200 OF 2017 is partly allowed.
- (ii) Impugned judgment and order dated 03.11.2016 passed by the learned Judicial Magistrate 1st Class, Amritsar is quashed and set aside. The proceedings of this case be sent back to the trial Court for hearing on merits from the stage it was dismissed in default, subject to the applicant-appellant deposit a sum of ₹5,000/- to be paid to the respondent, within a period of eight weeks from the date of appearance before the trial Court.
- (iii) The parties are directed to appear before the Court below on 14.12.2017.

10TH NOVEMBER, 2017
'raj'

(A. B. CHAUDHARI)
JUDGE

Whether speaking/reasoned: *Yes* *No*

Whether Reportable: *Yes* *No*