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

CRA-AS-231 of 2017 (O&M)

Date of decision: December 15, 2017

Surender Kumar

.....Applicant-Appellant

Versus

State of Haryana and another

.....Respondents

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

Present: Mr. Himanshu Puri, Advocate for the applicant-appellant.

Ms. Tanushree Gupta, DAG Haryana.

None for respondent No.2.

A.B. CHAUDHARI, J

CRM-A-272-MA of 2014

Heard.

Application for grant of leave to appeal against the order of acquittal is allowed. Office is directed to register and assign number to the appeal.

At the request of learned counsel for the applicant, the same is taken up for hearing today itself.

CRA-AS-231 of 2017

Despite service, none appeared before the trial Court.

The complainant had filed a complaint under Section 138 of the Negotiable Instruments Act, 1881, which was registered as Criminal Case in respect of dishonour of cheque in the sum of ₹14,00,000/-. The same was dismissed in default for want of prosecution.

Learned counsel for the appellant-complainant submits that the appellant remained present almost on all the dates, but on one date namely 24.08.2013, the appellant remained absent as he had noted down the wrong date. The learned trial Court dismissed the complaint in default for want of prosecution.

Learned counsel for the appellant submits that the appellant is really interested in getting his case decided on merits but for the default on that particular date, his complaint was dismissed. In my opinion, the case of the appellant-complainant should not be buried without the same being decided on merits. But then appellant will have to be cautious to attend the trial with promptitude to get its case decided.

In that view of the matter, I make the following order:

ORDER

- (i) CRA-AS-231 of 2017 is allowed;
- (ii) Impugned order dated 24.08.2013 (Annexure A-2) passed by learned JMIC Gurgaon, is quashed and set aside;
- (iii) Proceeding of the compliant is remitted to the trial Court for its disposal on merits. The trial Court shall hear both the parties and dispose of the same, in accordance with law.
- (iv) The appellant shall appear before the trial Court on 10.01.2018.

(A.B. CHAUDHARI)
JUDGE

December 15, 2017
mahavir

Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No