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

**CRA-AS-53 of 2017 (O&M)**

**Date of decision: April 19, 2017**

Satpal

.....Appellant

Versus

Gian Singh

.....Respondent

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

**Present:** Mr. Jagdeep S. Virk, Advocate for the appellant.

None for the respondent.

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**A.B. CHAUDHARI, J (Oral)**

**CRM-A-799-MA of 2015**

This Court had made an order issuing notice of motion on 13.07.2015. On 18.09.2015, counsel appeared for the respondent and thereafter, none appeared for the respondent. On 09.02.2017, this Court made the following order:-

*“Put up for final disposal on 17.02.2017.  
Learned counsel for the petitioner to inform the counsel  
for the respondent about the fixing of the next date of  
hearing.”*

Learned counsel for the applicant states that the said order has been complied with. Even then there is no appearance before the Court. This Court does not have any option but to proceed with the matter in the absence of the respondent or his counsel.

Rule. Heard forthwith finally.

Leave to appeal is granted.

Office is directed to register and number the appeal.

**CRA-AS-53 of 2017**

Heard learned counsel for the appellant.

The short controversy in the present matter is that the

appellant had filed a private complaint under Section 138 of the Negotiable Instruments Act, 1881. The trial Court vide order dated 19.11.2014 dismissed the complainant in default for non-appearance of the appellant-complainant. Perusal of the zimini orders show that the appellant and his counsel were absent before the trial Court on 19.11.2014 and though, the Court had waited for him, neither the appellant-complainant nor his counsel appeared. Be that as it may, the appellant-complainant ought to have taken care to appear before the trial Court to prosecute his case in accordance with law. He did not do so. Nevertheless, the *lis* of the complainant need not be buried and he should be given a chance to prosecute his case before the trial Court as last chance. In that view of the matter, following order is passed:

**ORDER**

- (i) Rule is partly made absolute;
- (ii) The impugned order dated 19.11.2014 is set aside. Criminal case No.658/13 is restored and remitted to the trial Court for hearing and fresh disposal in accordance with law;
- (iii) The appellant shall appear before the trial Court on 10.05.2017 and shall deposit the costs in the sum of ₹1,000/- which shall be the pre-condition; the trial Court shall proceed further in accordance with law.

**(A.B. CHAUDHARI)**  
**JUDGE**

**April 19, 2017**

mahavir

Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No