

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

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**CRM-A-1671-MA-2016
Date of Decision: 25.10.2017.**

M/s Rahul Trading

....Applicant.

Versus

Ajay Kumar

....Respondent.

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Ms. Sunita Nambjar, Advocate for the applicant.

Ramendra Jain, J.(Oral)

Through the instant application under Section 378(4) Cr.P.C., prayer has been made for grant of special leave to appeal.

The applicant filed a complaint under Section 138/141 and 142 of the Negotiable Instruments Act (for short, 'the Act') against the respondent, which has been dismissed in default vide impugned order dated 01.07.2016.

Learned counsel for the applicant contends that after recording preliminary evidence, the respondent was summoned, but before his appearance, the complaint was dismissed in default vide the impugned order on a single default of non appearance of the applicant. If the impugned order is not set aside, the applicant will suffer irreparable loss.

Considering over all facts and circumstances, the impugned order dated 01.07.2016 is set aside for the simple reason that nobody should

be condemned unheard on technical ground. Resultantly, the trial Court is directed to restore the complaint of the applicant, subject to payment of costs of ₹5,000/- by the applicant-complainant and to proceed further with the same on merit in accordance with law.

This application is disposed of without issuing notice to the respondent with a view to impart justice to the parties and to save the huge expenses which may be incurred by the respondents and also to avoid unnecessary delay in the adjudication of the matter. Still if dissatisfied, the respondent may move this Court for recalling of this order within six weeks from today.

(RAMENDRA JAIN)
JUDGE

25.10.2017
jitender sharma

Whether speaking/ reasoned : Yes/ No

Whether Reportable : Yes/ No