

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

**CRM-A-No.1203-MA OF 2014 in
CRA-AS-No.6 of 2017
DATE OF DECISION : 6th FEBRUARY, 2017**

M/s. SU-KAM Power Systems Ltd. Gurgaon

.... Appellant

Versus

M/s. Goel Trading Company & Another

.... Respondent

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

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Present : Mr. Pulkit Dagar, Advocate for the applicant-appellant.

Mr. Himanshu Chhabra, Advocate for
Mr. Puneet Sharma, Advocate for the respondents.

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A. B. CHAUDHARI, J. (ORAL)

This appeal is directed against order dated 30.04.2014 passed by the learned JMIC, Gurgaon, dismissing the private complaint filed by the appellant under Section 204(4) Cr.P.C.

Learned counsel for the respondent-accused prays for some time to address arguments.

However, looking to the nature of matter, I think there is no need to adjourn the proceedings.

Leave to appeal is granted and the same is taken up for hearing today itself with consent of learned counsel for the parties.

Counsel for the appellant states that the cheque amount was ₹5,02,000/- and it appears from the reading of the orders that since the accused was not being served in ordinary course, the trial Judge asked the appellant to have the publication for effecting his service as per rules. Not only that, the learned JMIC, Gurgaon also made an order dated 30.04.2014 asking for deposit of ₹2,000/- for publication. It, however, appears that the appellant did not deposit that amount and as a result of which on the same

dated the JMIC, Gurgaon observed that the amount has not been deposited and the complaint filed under Section 202(4) Cr.P.C. was dismissed.

I do not find any fault with the impugned order. However, the appellant cannot be punished for not complying with the orders regarding deposit of publication charges. At the same time some amount of costs will have to be deposited by the appellant before the trial Court for not depositing the required charges. In that view of the matter, I think, the complainant-appellant should be allowed to prosecute his complaint under Section 138 of Negotiable Instruments Act, on merits, rather than burying the same without being heard on merits. In the result, I make the following order:

ORDER

- (i) Rule is made absolute.
- (ii) Impugned order dated 30.04.2014 passed by JMIC, Gurgaon is set aside.
- (iii) The appellant is directed to deposit ₹2,000/- for publication as directed by the JMIC and ₹5,000/- as well before the trial court within a period of four weeks from today, failing which this order shall come to an end without reference to this Court. The amount of ₹5,000/- shall be credited to the State of Haryana.
- (iv) The appeal stands disposed of accordingly.
- (i) The parties are directed to appear before the trial court on 14.02.2017.

6th February, 2017
'raj'

(A. B. CHAUDHARI)
JUDGE

Whether speaking/reasoned:	Yes	No
Whether Reportable:	Yes	No