

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-A-1531-MA-2015 (O&M)

Date of decision: July 06, 2017.

Vicky Bhalla

... **Petitioner**

v.

Dalbir Singh

... **Respondent**

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

Present: Shri D.J. Dutta, Advocate for the petitioner.

Shri Tarun Veer Singh Lehal, Advocate for the respondent.

A.B. Chaudhari, J. (Oral):

Heard learned Counsel for the rival parties.

What is impugned in the present petition is the order dated 23.4.2015 passed in a private complaint under Section 138 of the Negotiable Instruments Act. The petitioner remained absent on the appointed date. The trial court therefore did not think it proper to wait further for appearance of the petitioner for tendering of evidence and therefore dismissed the case in exercise of powers under Section 256 Cr.P.C.

Learned counsel for the respondent/accused vehemently opposed the petition and submitted that the petitioner was negligent. Not only that, he has filed several cases against other persons and therefore, the complaint should not be restored.

I have perused the impugned order. I find that admittedly the complaint was not heard on merits. Since the petitioner remained absent and the trial court dismissed the complaint for want of prosecution and discharged the accused under Section 256 Cr.P.C., the fact remains that

there was no trial on merits. The amount of cheque is stated to be Rs.19,000/-. In view of the negligence on the part of the petitioner in prosecuting his case, costs in the sum of Rs.5,000/- to be deposited with the trial court are imposed upon the petitioner, and the decision regarding disbursal thereof shall be made by the trial court at the end of the trial. In that view of the matter, the following order is inevitable:-

ORDER

- (i) CRM-A-1531-MA-2015 is partly allowed;
- (ii) impugned order dated 23.4.2015 is quashed and set aside;
- (iii) the complaint shall be restored to its original number and shall be decided on merits subject to deposit of Rs.5,000/- with the trial court;
- (iv) disbursal of the costs shall be done at the end of the trial.

July 06, 2017.

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[A.B. Chaudhari]
Judge

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No