

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-A-295-MA-2017 (O&M)

Date of decision: 08.09.2017

Jagdish Kumar

..... Applicant

Versus

Beena Yadav and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. Pravesh Yadav, Advocate for the applicant.

RAMENDRA JAIN, J. (ORAL)

1. The instant application for grant of leave to appeal against the order dated 12.12.2016 passed by the learned Judicial Magistrate Ist Class, Gurgaon.

2. Briefly stated, the applicant filed a complaint against respondents, namely; Beena Yadav and Rupes Yadav under Section 138 of the Negotiable Instruments Act, 1881. On 12.12.2016, the said complaint was dismissed on account of non-appearance of the applicant.

3. Learned counsel for the applicant contends that the absence of the applicant was not intentional or deliberate as his counsel was under the impression that Eid was falling on the said day and, therefore, the Court would not be in session.

4. Heard.

5. Without commenting upon the merits of the case but considering the fact that there is a single default of the applicant and the punishment of dismissal of his complaint is disproportionate to the

mis-conduct of the applicant in general, the instant application is disposed

of with a direction to the trial Court to restore the complaint of the applicant to its original number and proceed further in accordance with law, subject to payment of ₹ 20,000/- as costs to be deposited with the District Legal Services Authority, Gurugram.

6. The applicant is directed to appear before the trial Court on or before 20.09.2017.

7. This application is disposed of without issuing notice to the respondents 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 respondents may move this Court for recalling this order within six weeks from today.

September 08, 2017
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(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No