

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-A-397-MA-2017 (O&M)

Date of decision: 30.11.2017

Mandeep Singh

..... Applicant

Versus

Lucky Singh and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. GS Sidhu, Advocate for the applicant.

RAMENDRA JAIN, J. (ORAL)

CRM-7271-2017

For the reasons mentioned in the application, which is supported by an affidavit, the same is allowed. The delay of 18 days in filing application for grant of leave to appeal is condoned.

CRM-A-397-MA-2017

1. Through the instant application under Section 378(4) Cr.P.C., prayer has been made for grant of special leave to file accompanying appeal against the order dated 30.11.2016, passed by the trial Court, whereby Complaint No. 80 of 2016, under Section 138 of the Negotiable Instruments Act, 1881, (for short-'the Act') filed by the applicant was dismissed in default, on account of his non-appearance.

2. Learned counsel for the applicant *inter alia* contends that on a single default of the applicant, his complaint under Section 138 of the Act was dismissed vide the impugned order. The instant application has been

filed, in view of the fact that the Magistrate, has no power to review his own

order of dismissal of the complaint.

3. Considering the overall facts and circumstances of the case, the impugned order dated 30.11.2016, is set aside, subject to payment of ₹ 500/- as costs, to be deposited with the District Legal Services Authority, Sirsa. The trial Court is directed to proceed further with the complaint of the applicant, in accordance with law, by restoring the same to its original number.

4. The instant Criminal Miscellaneous Application is disposed of without issuing notice to the respondents with a view to impart justice expeditiously 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 a period of six weeks from today.

November 30, 2017
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(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No