

CRM-M-19689-2010

[1]

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

(Sr. No.240)

CRM-M-19689-2010

Date of Decision:-March 17, 2017

M/s R.R Automotive Components P. Ltd.

.....Petitioner

V/S

M/s Galaxy Amaze Kingdom Ltd. and others

.....Respondents

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

Present : Mr. Rohit Ahuja, Advocate, for the petitioner(s).
None for the respondents.

A.B. Chaudhari, J. (Oral)

Rule. Heard forthwith.

Despite service, no one has put in appearance on behalf of the respondents. What is impugned in the present petition is the order dated 18.11.2009 passed by Judicial Magistrate 1st Class, Faridabad, confirmed in revision on 18.02.2010 by Additional Sessions Judge, Faridabad in Criminal Revision No.16 of 03.02.2010.

Learned counsel for the petitioner submits that in the case of bouncing of cheque in the sum of ₹2.50 lacs, the petitioner has already examined two witnesses in his complaint case. The last witness namely the banker who was required to be examined, belongs to Chennai, but the trial Court dismissed his complaint by making the following order:-

“No evidence of complainant is present. Neither the complainant is present nor his counsel is responding since morning. Complaint has been called several times since morning but none is responding on behalf of complainant. It is 3.30 p.m. Waited sufficiently. Hence, present complainant stands dismissed under Section 256 Cr.P.C. for non-appearance of complainant. File after due compliance, be consigned to the record room.”

The revisional Court also dismissed the revision filed by the petitioner. The petitioner has, admittedly, examined two witnesses, but on the appointed date i.e.18.11.2009, counsel for the petitioner states that the petitioner could not appear because of his old age and his ailment. He submits that the petitioner be given one more opportunity to prosecute his case and the witness from Chennai could be examined.

Having heard the submissions made by learned counsel for the petitioner and the reasons given in the impugned order, I find that the petitioner has in fact examined two witnesses and, therefore, it cannot be said that he did not have bona fide to prosecute his complaint. At any rate, the petitioner wants a chance to examine the third witness. In my opinion, there should be adjudication on merits rather than burring the complaint without being decided on merits. The respondents have not come present before this Court to continue with this petition.

In that view of the matter, this petition is, therefore, allowed. The impugned orders dated 18.11.2009 passed by Judicial Magistrate 1st Class, Faridabad and dated 18.02.2010 passed by Additional Sessions Judge, Faridabad are hereby quashed and set aside. The petitioner is allowed one more last opportunity to appear before the trial Court and examine the witness. The petitioner shall appear before the trial Court on 05.04.2017 and proceed further in accordance with law.

Disposed of.

(A.B. Chaudhari)
Judge

March 17, 2017

Pankaj

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No