

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-31164-2017

Date of decision: 02.12.2017

Paramjit Singh

..... Petitioner

Versus

Sana Mahendro

..... Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. Sanjeev Gupta, Advocate for the petitioner.

RAMENDRA JAIN, J. (ORAL)

1. Through the instant petition under Section 482 Cr.P.C. challenge has been laid to the order dated 01.07.2017 (Annexure P-2) passed by the Sub Divisional Judicial Magistrate, Tohana, dismissing the complaint (Annexure P-1) of the complainant-petitioner filed under Section 138 of the Negotiable Instruments Act, 1881, in default, on account of his absence.

2. Learned counsel *inter alia* contends that on a single default of the petitioner of non-appearance, his complaint was dismissed vide the impugned order Annexure P-2. In case, the same is not ordered to be restored by setting aside the impugned order Annexure P-2, the petitioner would suffer an irreparable loss.

3. Considering the overall facts and circumstances of the case, the impugned order dated 01.07.2017 (Annexure P-2), is set aside, subject to payment of ₹ 5000/- as costs, to be deposited with the District Legal

with the complaint of the petitioner, in accordance with law, by restoring the same to its original number.

4. The instant petition is disposed of without issuing notice to the respondent with a view to impart justice expeditiously to the parties and to save the huge expenses which may be incurred by the respondent and also to avoid unnecessary delay in the adjudication of the matter. Still, if dissatisfied, the respondent may move this Court for recalling this order within a period of six weeks from today.

5. The petitioner is directed to appear before the trial Court on or before 20.12.2017.

December 02, 2017

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**(RAMENDRA JAIN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No