

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-46007 of 2017(O&M)

Date of decision:-4.12.2017

Lalit

...Petitioner

Versus

Puran Kumar

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Dr.Praveen Hans, Advocate
for the petitioner.

H.S. MADAAN, J.

This petition under Section 482 Cr.P.C. is directed against judgment dated 25.9.2017 passed by Sessions Judge, Hisar reversing order dated 17.12.2014 passed by Sub Divisional Judicial Magistrate, Hansi dismissing the complaint under Section 138 of the Negotiable Instruments Act filed by complainant – respondent Puran Kumar against petitioner – accused Lalit. The petitioner prays that the petition be accepted, the impugned judgment passed by learned Sessions Judge, Hisar be set aside and order passed by Sub Divisional Judicial Magistrate, Hansi be restored.

Briefly stated, facts of the case are that complainant – respondent – Puran Kumar had filed a complaint under Section 138 of

Negotiable Instruments Act against accused Lalit Kumar, who is petitioner before this Court in the Court Judicial Magistrate Ist Class, Hisar, which was returned to the complainant vide order dated 20.9.2014 in the view of the judgment passed by the Apex Court in **Dashrath Rupsingh Rathod Versus State of Maharashtra and another, AIR 2014 SC 3519**. It was directed that the complaint would be presented before the Court having jurisdiction i.e. where drawee bank is situated and liberty was given to the complainant to file fresh complaint in the Court having appropriate jurisdiction within 30 days from the order of return. However, the complaint was filed belatedly after a period of 30 days on 22.10.2014 in the Court having jurisdiction i.e. Sub-Divisional Judicial Magistrate at Hansi, who vide order dated 17.12.2014 dismissed the complaint for the reason of time barred.

The complainant challenged the said order by way of filing of revision petition, which was accepted by learned Sessions Judge, Hisar, setting aside order dated 17.12.2014 passed by Sub Divisional Judicial Magistrate, Hansi issuing the directions to restore the complaint at its original number.

The judgment left the accused aggrieved and he has approached this Court by way of filing the present petition.

I have heard learned counsel for the petitioner besides going through the case file and I find that there is no illegality or infirmity in the judgment passed by learned Sessions Judge, Hisar much less the same being perverse or having been passed in violation of the settled principles of criminal jurisprudence. There is no error apparent on the face of it. It is

always desirable that a lis should be decided on merits rather than non-suiting a litigant on a technical ground. Learned Sessions Judge, Hisar had correctly passed the judgment after going through all the facts and circumstances.

Finding no merits in the petition, the same stands dismissed.

4.12.2017
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No