

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

CRR No. 2183 of 2017 (O&M)

DATE OF DECISION :- December 08, 2017

Daman Traders

...Petitioner

Versus

Dhiraj Saini

...Respondent

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

Present:- Mr. Kanwar Pahul Singh, Advocate for the petitioner.

Complainant Daman Traders have filed the complaint under Section 138 of the Negotiable Instruments Act against accused Dheeraj Saini, which was pending before the Judicial Magistrate Ist Class, Amritsar. It was dismissed vide order dated 22.7.2016 due to non representation on behalf of complainant in the Court. It is submitted that on that very day, an application for restoration for complaint was filed but the same was dismissed vide order dated 9.12.2016.

Feeling aggrieved, the complainant has approached this Court by way of filing Criminal Revision Petition. The petition has been filed belatedly by 202 days. An application for condonation of delay in filing the Criminal Revision Petition has been filed. I find sufficient reasons to condone the delay in filing of the Criminal Revision Petition. Therefore, such application stands allowed.

Coming to the merits of the case, the complaint had been filed

with respect to the cheques to have been issued by accused in favour of complainant on account of discharge of financial liability. The cheques which were dishonoured due to insufficient funds in the account of accused. The cheques amount happened to be Rs.20,000/-, Rs.30,000/- and Rs.20,000/-.

It is always desirable that a lis be decided on merits rather than non suiting the parties on technical grounds. It is contended that non appearance of the complainant and his counsel in the Court was not intentional or wilful but for the reason that counsel for the complainant appeared in the Court at 12.30 A.M.. When he came to know that case was fixed for filing correct address of the accused and when he again moved there he came to know that case has been dismissed at 2.00 P.M. The application is stated to have been filed on that very day.

The Criminal Revision Petition deserves to be accepted, the same is allowed. Resultantly, impugned order dismissing the complaint for non appearance of the complainant is directed to be restored at its original number. The trial Magistrate may start proceedings from the stage when it had been dismissed. The complainant through counsel is directed to appear in the trial Court on 21.12.2017 at 10.00 A.M. A copy of this order be sent there for information and necessary compliance.

(H.S. MADAAN)
JUDGE

December 08, 2017

p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No