

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

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**CRR No.4059 of 2017 (O&M).
Date of Decision: 30.11.2017.**

Shri Vishal Sharma

....Petitioner.

Versus

State of Punjab and another

....Respondents.

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Sourabh Arora, Advocate for the petitioner.

Ramendra Jain, J.(Oral)

CRM-35389-2017

For the reasons mentioned in the application, delay of 86 days in filing the revision petition is condoned. Application is allowed.

CRR-4059-2017

Through this revision, challenge has been made to the order dated 09.05.2017 passed by Judicial Magistrate Ist Class, Amritsar, whereby the complaint filed by the petitioner under Section 138 of the Negotiable Instruments Act, was dismissed under Section 204(4) Cr.P.C.

Learned counsel for the petitioner contended that respondent No.2 was living on the same address which was mentioned in the complaint and thus, there was no necessity to file his correct/fresh address. The petitioner videographed the house of respondent No.2 in which he was/is residing, address of which was mentioned by the petitioner in his complaint.

The petitioner moved an application for restoration of his complaint, but the

same was also dismissed by the trial Court in view of the law laid down by Hon'ble Apex Court in Adalat Prasad Vs. Roop Lal Jindal & others decided on 25.08.2004, that Judicial Magistrate is not vested with any power to restore a complaint as the same would amount to recalling of its own order, which is not permissible under law.

Considering over all facts and circumstances, the impugned order dated 09.05.2017 is set aside. The trial Court is directed to restore the complaint and to effect service upon respondent No.2 on the address mentioned by the petitioner in his complaint or any other latest address of respondent No.2 so to be given by him and to proceed with the complaint in accordance with law, subject to payment of costs of Rs.5000/- to be deposited by the petitioner with the District Legal Services Authority, Amritsar.

The instant petition is disposed of without issuing notice to the respondents with a view to impart justice to the parties expeditiously 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 one month from today.

(RAMENDRA JAIN)
JUDGE

30.11.2017
jitender sharma

Whether speaking/ reasoned : Yes/ No

Whether Reportable : Yes/ No