

CRA-AS-180 of 2016

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

CRA-AS-180 of 2016
Date of Decision: 16.10.2018

M/s Sachdeva Metal & Ferro Alloys (P) Ltd.
....Appellant

Versus

M/s Krishna Engg. Works Ltd. and others
....Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Ms. Rishma Verma, Advocate, for the appellant.
Mr. Tarun Sharma, Advocate,
for Mr. R.S. Bajaj, Advocate, for respondents No.1 to 4.
Mr. Harpreet Multani, AAG, Punjab.

RAMENDRA JAIN, J. (ORAL)

Through this appeal challenge has been laid to judgment dated 25.04.2014, of trial Court, whereby complaint under Section 138 of the Negotiable Instruments Act, 1881 (in short the 'Act') read with Section 420 IPC, filed by applicant was dismissed.

Briefly, in a complaint filed by the appellant under Section 138 of the Act coupled with Section 420 IPC, after recording evidence, respondents were summoned only under Section 138 of the Act. They were served notice of accusation vide order dated 20.09.2013 and the case was adjourned to 21.11.2013 for appellant's evidence, on which date, respondents moved application seeking exemption from their personal appearance. The

same was allowed and the case was adjourned to 20.01.2014. On

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20.01.2014 also, similar application for exemption from personal appearance was moved by respondent No.4 – Varinder Juneja. Consequently, granting him exemption from personal appearance, case was adjourned to 31.03.2014, on which date again exemption application was moved on behalf of respondent No.3 and complainant as well. Therefore, the case was again adjourned to 25.04.2014. On 25.04.2014, the trial Court in a haste, dismissed the complaint of the appellant by closing his evidence.

Perusal of abovesaid factual position shows that not even a single effective opportunity was afforded to the appellant to lead his evidence. It is a glaring example of highhandedness and callous attitude of the young Magistrates, who are still learners and have a long life to lead and impart justice in a positive way. They are required, by and large, in the present scenario to introspect and feel as to what would have happened with them or their parents, if some other Magistrate had behaved with them in the same fashion. Young Magistrates may bear in mind that they are not above law. Nobody comes to Court happily. Even no one wants to come to Court unless circumstances force him. He only comes, when he loses ray of hope from all corners of the society, to seek justice through them, treating and believing them “ALMIGHTY”. Litigation is very costly now-a-days. It is our earnest duty not to betray the trust of “general masses” inasmuch as Courts are meant to impart justice and not to scuttle the throat of the litigants/justice.

Since the complaint of the appellant has been dismissed

without affording opportunity to him to lead evidence in support of

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his contention, therefore, instant appeal is allowed. Impugned judgment dated 25.04.2014 is set aside with direction to the trial Court to restore the complaint of the appellant at its original number and afford full opportunities to him for adducing his evidence.

October 16, 2018
R.S.

(Ramendra Jain)
Judge

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No