

CRA-AS-21-2018

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

CRA-AS-21-2018
Date of Decision: 05.12.2018

Sh. Ashok

...Appellant

Versus

Akbar

....Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present:- Mr. S.K. Daaria, Advocate, for the appellant.
Mr. Dushyant, Advocate,
for Mr. Ankur Lal, Advocate, for the respondent.

RAMENDRA JAIN, J. (ORAL)

Complainant has preferred instant appeal against the order of the trial Court dated 01.12.2016, dismissing his complaint under Section 138 of the Negotiable Instruments Act in default on account of his non-appearance.

Learned counsel *inter alia* contends that dismissal of complaint of the appellant by trial Court vide impugned order on account of single default of non-appearance of applicant or his counsel, is disproportionate and harsh in view of the fact that applicant was appearing throughout on each and every date prior to that date.

After giving anxious thought to the submissions made by learned counsel for the appellant, this Court is of the considered view that appellant should not be condemned unheard inasmuch as duty of the Courts is to impart justice to the litigants and not to non-suit them on technical

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grounds. In the instant case, only on a single default of the appellant or his counsel, his complaint was dismissed vide impugned order which is a very harsh step taken by the trial Court.

Considering overall facts and circumstances of the case, impugned order dated 01.12.2016, is set aside subject to deposit of ₹2,000/- as costs with the District Legal Services Committee, Gurugram. The trial Court is directed to proceed further with the complaint of the appellant, in accordance with law, by restoring the same to its original number.

The instant appeal stands disposed of accordingly.

December 05, 2018
R.S.

(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No