

CRM-A-1689-MA of 2016 (O&M)

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

CRM-A-1689-MA of 2016 (O&M)

Date of Decision: 30.11.2018

Reena Persis

....Applicant

Versus

Sudesh Kumar

....Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Sarbjit Singh, Advocate, for the applicant.
None for the respondent.

RAMENDRA JAIN, J. (ORAL)

Through this application under Section 378(4) Cr.P.C., prayer has been made for grant of leave to file appeal against order dated 19.07.2016, of trial Court, whereby complaint under Sections 138 and 141 of the Negotiable Instruments Act, 1881, filed by applicant was dismissed in default, on account of her non-appearance.

Learned counsel *inter alia* contends that dismissal of complaint of the applicant by trial Court vide impugned order on account of single default of non-appearance of applicant or her 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

CRM-A-1689-MA of 2016 (O&M)

learned counsel for the applicant, this Court is of the considered view that applicant 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 grounds. In the instant case, only on a single default of the applicant or her counsel, her 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, the impugned order dated 19.07.2016, is set aside subject to deposit of ₹5,000/- as costs with the District Legal Services Committee, Amritsar. The trial Court is directed to proceed further with the complaint of the applicant, in accordance with law, by restoring the same to its original number.

The instant Criminal Miscellaneous Application, stands disposed of, accordingly.

November 30, 2018
R.S.

(Ramendra Jain)
Judge

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No