

CRM-A-2474-MA of 2017

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

CRM-A-2474-MA of 2017
Date of Decision: 06.08.2018

Ravinder Singh

....Applicant

Versus

M/s Krishna Flour Mill and others

....Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. Chand Ram Olla, Advocate, for the applicant.

RAMENDRA JAIN, J. (ORAL)

Through this application under Section 378(4) Cr.P.C., prayer has been made for grant of special leave to file appeal against order dated 09.10.2017, of trial Court, whereby the complaint under Sections 138, 141 & 142 of the Negotiable Instruments Act, 1881 and Section 420 IPC, filed by applicant was dismissed in default, on account of his non-appearance.

Learned counsel *inter alia* contends that pursuant to order No.6195-6205 dated 26.09.2017 of learned Sessions Judge, Palwal, complaint of the applicant was transferred to learned Judicial Magistrate Ist Class, Hathin, without any notice to applicant. Therefore, the applicant noted down a wrong date. Absence of the applicant is not intentional or deliberate. Punishment of dismissal of complaint in default is disproportionate to the act of non-appearance of the applicant.

After giving anxious consideration to the submissions made by learned counsel for the applicant, this Court is of the considered opinion that nobody should be condemned unheard. 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 his counsel, his

CRM-A-2474-MA of 2017

complaint was dismissed vide impugned order which is a very harsh step taken by the trial Court.

Considering the overall facts and circumstances of the case, the impugned order dated 09.10.2017, is set aside. 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.

August 06, 2018
R.S.

(RAMENDRA JAIN)
JUDGE

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