

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

CRM-A-575-MA-2014(O&M)

Date of decision : 17.05.2018

Karamjit Singh

.....Applicant-appellant

versus

Rajni Kohli

..... Respondent

CORAM : HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Varinder Chhibbar, Advocate
for Mr. Harsh Garg, Advocate
for the applicant-appellant.

Mr. Abhinav Gupta, Advocate
amicus curiae for the respondent.

SURINDER GUPTA, J. (Oral)

Heard. The complaint filed by applicant-appellant for offence punishable under Section 138 of the Negotiable Instruments Act was dismissed on 06.11.2013 due to non-appearance of the complainant-appellant.

Learned counsel for the applicant-complainant submits that the complainant could not appear on 06.11.2013 as he was not aware of the date. The complaint was fixed on 31.10.2013 and on that date the applicant-complainant was present in the Court but the same was not listed. Thereafter Diwali vacations started and the Court opened on 06.11.2013, on which date the complaint was taken up and dismissed. The submissions of learned counsel for the applicant-appellant have not been rebutted by learned

counsel for the respondent.

In these circumstances, when the complaint was fixed for 31.10.2013 but not listed, learned trial Court was duty bound to issue notice to the complainant and the accused party on next day after vacations, when it was taken up instead of dismissing the complaint in default due to non-appearance of the complainant. The order passed by the learned trial Court is not sustainable in the eyes of law as such the same is set aside and as such, the appeal stands allowed.

Parties are directed to appear before the trial Court on 04.07.2018. The trial Court will take up the matter and decide the same on merits in accordance with law.

(SURINDER GUPTA)
\JUDGE

17.05.2018
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Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No