

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

CRM-A-903-MA of 2015

Date of Decision: 06.02.2018

Raj Kumar

....Petitioner

Versus

Kavita

....Respondent

CORAM:HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Shiv Kumar, Advocate
for the petitioner.

Mr. Shahid Hussain, Advocate for
Mr. B.S. Tewatia, Advocate
for the respondent.

MAHABIR SINGH SINDHU, J.(Oral)

Heard.

Leave to appeal granted.

Registry is directed to assign the number of the appeal.

Main appeal:

Notice of the appeal.

Mr. Shahid Hussain, Advocate accepts notice on behalf
of the respondent.

Challenge is to the order dated 21.01.2015 vide which the
complaint under Section 138 of the Negotiable Instruments Act was
dismissed for non-prosecution on account of his non-appearance. It is
contended that none appeared on behalf of the appellant on
21.01.2015 and that was on account of the communication gap with
his counsel and as a matter of fact the date was noted as 03.04.2015
instead of 21.01.2015.

On the other hand, learned counsel for the respondent is opposing the contention that the complainant is unnecessarily delaying the matter.

Heard both the parties and perused the paper book.

There is no doubt that the case was called thrice on 21.01.2015 and none appeared on behalf of the appellant, but the reason is validly explained i.e. a wrong date was communicated by his counsel before learned trial Court. Even otherwise, the complainant/appellant is not going to gain anything in delaying the matter since he is the complainant in cheque bounce case.

In view of the above, the appeal is allowed and the impugned order dated 21.01.2015 is set aside subject to payment of costs of Rs.5000/- (Rupees five thousand only) to be paid to the opposite side on very first date of hearing before learned trial Court.

Parties are directed to appear before learned trial Court on 01.03.2018.

However, it is made clear that the petitioner shall not repeat the same lapse(s) in future.

Ordered accordingly.

[MAHABIR SINGH SINDHU]
JUDGE

February 06, 2018
rashmi

Whether speaking/reasoned	yes
Whether reportable?	yes