

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

CRM-M-27993 of 2014(O&M)

Date of Decision: 19.01.2018

ASHOK YADAV

....Petitioner

Versus

M/S EMGREEN BUILDCON PVT. LTD AND ORSRespondent

CORAM:HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Munish Soni, Advocate
for the petitioner.

None for the respondent.

MAHABIR SINGH SINDHU, J.(Oral)

The present application has been filed under Section 482 Cr.P.C. for setting aside the order dated 28.07.2012 (Annexure P-6), passed by learned Judicial Magistrate 1st Class, Gurgaon, whereby the criminal complaint No.18752 dated 11.12.2009 registered under Section 138/142 of Negotiable Instruments Act (for short 'the Act') was dismissed for non prosecution.

It is contended that the petitioner was not asked by his counsel to be present in person at the time of hearing and therefore on account of the non appearance of the petitioner the impugned order dated 28.7.2017 was passed and the complaint under Section 138 of the Act was dismissed for non prosecution.

I have heard learned counsel for the petitioner and perused the impugned order.

It transpires that the complaint was dismissed on account of non appearance of the petitioner by learned trial Court, the explanation extended by the petitioner seems to be reasonable and justified in a cheque

bounce case and moreover none has appeared in this case on behalf of the respondents. Even on 02.09.2016 and 29.08.2017 also none appeared for the respondents.

In view of the above, the present petition is allowed and the impugned order dated 28.07.2012 is set aside and parties are directed to appear before learned trial Court on 26.02.2018.

Respondents shall be compensated by the petitioner with the costs of Rs. 5000/- (Rupees Five thousand only).

[MAHABIR SINGH SINDHU]
JUDGE

January 19, 2018
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Whether speaking/reasoned	yes/no
Whether reportable?	yes/no