

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-37579-2016
Date of decision:15.1.2018

Jagat Varun Bhardwaj

.....Petitioner

Versus

Charanjit Singh

.....Respondent

CORAM : HON'BLE MR.JUSTICE MAHABIR SINGH SINDHU

Present: None for the parties.

MAHABIR SINGH SINDHU, J. (ORAL)

Present petition has been filed for quashing of order dated 12.9.2016 passed by learned Judicial Magistrate Ist class, Jalandhar vide which complaint filed by the petitioner under Section 138/139 of the Negotiable Instruments Act (for short - "the Act) has been dismissed while invoking the provision under Section 256 Cr.P.C.

No one is present today. It transpires that on the last date of hearing also, none appeared in this case.

A perusal of the impugned order reveals that on 17.8.2016 non-bailable warrants were issued against the accused-respondent, but the same were received back with the report that name of the *Mohalla* has not been mentioned. Consequently, complainant was directed to file correct

address of the accused, but he failed to do so and even did not appear on 12.9.2016 and that led the passing of the impugned order.

No doubt the petitioner was directed to supply the correct address of the accused, but in view of the fact that non-bailable warrants were issued against the accused-respondent, therefore the petitioner was seriously pursuing his complaint.

Perusal of para No.7 of the present petition reveals that in view of the fact that there was some communication gap of the petitioner with his counsel and therefore, he was not aware of the date of hearing and that was the only reason for non-appearance of the petitioner and consequent dismissal of the complaint for non-prosecution.

In view of the above factual position, the explanation rendered by the petitioner is sufficient and impugned order deserves to be set aside. Consequently, the present petition is allowed, impugned order dated 12.9.2016 is set aside subject to payment of costs of ₹5,000/- to be deposited with District Legal Services Authority, Jalandhar.

Both the parties are directed to appear before trial Court on 26.2.2018 before learned trial Court.

15.1.2018
Gaurav Sorot

(MAHABIR SINGH SINDHU)
JUDGE

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| 1. | Whether reportable? | No |
| 2. | Whether reasoned / speaking? | Yes |