

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

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CRM-M No.40701 of 2017

Date of Decision: January 12th, 2018

Jaswant Singh alias Sunny

.....Petitioner

Versus

R.N. Kalia

....Respondent

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Gulzar Mohd., Advocate
for the petitioner.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioner has approached this Court assailing the order dated 09.09.2017 (Annexure P-4) passed by learned Additional Sessions Judge, Jalandhar, whereby the revision petition preferred by the respondent against the order of dismissal of default of the complaint preferred under Section 138 of the Negotiable Instruments Act, 1881, has been allowed, on the ground that the said revision petition was not maintainable.

Counsel for the petitioner relies upon the judgment of the Supreme Court passed in case titled as *V.K. Bhat Versus G. Ravi Kishore and another 2016(2) R.C.R. (Criminal) 793* to contend that the dismissal in default of a complaint under Section 138 of the Negotiable Instruments Act, 1881, amounts to acquittal of the accused under Section 256 of the Cr.P.C. and, therefore, an appeal would be maintainable under Section 378 (4) Cr.P.C. Counsel thus contends that the revision petition as entertained by the learned Additional Sessions Judge, Jalandhar, is not sustainable and the impugned order dated 09.09.2017 (Annexure P-4) deserves to be set aside.

I have heard the submissions made by learned counsel for the petitioner and on going through the facts and circumstances of the present

case, this Court in exercise of its extraordinary jurisdiction under Section 482 Cr.P.C. refuses to exercise the said powers, especially in the light of the fact that the petitioner had only been summoned by the trial Court and it was on the first date of hearing and that too because of wrong recording of the date by the counsel for the respondent that the respondent and his counsel could not appear before the trial Court resulting in the complaint being dismissed for non-prosecution. The learned Additional Sessions Judge, Jalandhar, has given detailed reasons for coming to such a conclusion and is right in observing that no prejudice is going to be caused to the petitioner herein because of the restoration of the complaint to its original position. An amount of ₹80,000/- is the one which was mentioned in the cheque which has been dishonoured leading to the filing of the complaint. The equity does not fall in favour of the petitioner. That apart, this Court would not exercise its extraordinary jurisdiction in situations where the Court is satisfied that no prejudice has been caused to any of the parties.

The present petition is dismissed with above observations.

January 12th, 2018
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No