

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

**CRM-M No.41961 of 2018 (O&M)
Date of Decision: 04.12.2018**

Maya Developers & Infrastructure Pvt. Ltd.
through its Director-Mukesh Soni

..... Petitioner

Versus

Hodil Singh

..... Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present:- Mr. Devender S. Thakur, Advocate for the petitioner.

Dr. Anand Bishnoi, Advocate for the respondent.

MAHABIR SINGH SINDHU, J. (Oral)

Present petition under Section 482 Cr.P.C. has been filed for setting aside the impugned orders dated 28.08.2018 and 06.09.2018, passed by learned trial Court in a complaint case bearing COMA/3/2016 dated 02.01.2016, titled as '**Maya Developers & Infrastructure Pvt. Ltd. Versus Hodil Singh**', filed by the petitioner/complainant under Section 138 of the Negotiable Instruments Act, vide which, the application of the petitioner/complainant for restoration of the complaint case, which was dismissed for non-prosecution on 28.08.2018, has been dismissed.

Learned Counsel for the petitioner contends that arguing Counsel appearing for the petitioner before learned trial Court was busy in some other Court and the complainant could not available at the time of hearing, which led to passing of an order dated 28.08.2018. Further contends that non-appearance of the complainant or his Counsel was not intentional and thus, prays for setting aside the aforesaid impugned orders dated 28.08.2018 and 06.09.2018.

Heard learned Counsel for the parties and perused the record.

Since this was the only lapse on behalf of the petitioner/complainant and moreover, this case is under Section 138 of the Negotiable instruments Act, therefore, there was no intention on the part of the petitioner for delaying the matter. Even otherwise, instead of dismissing the complaint for non-prosecution, learned trial Court ought to have taken a lenient view by imposing some costs on the complainant instead of dismissal for non-prosecution.

In view of above, the present petition is allowed and impugned orders dated 28.08.2018 and 06.09.2018, passed by learned trial Court, are set aside and complaint filed by the petitioner is restored, subject to payment of ₹ 2000/- (two thousand) as costs to the respondent.

Let the parties appear before learned trial Court on **18.12.2018**.

Aforesaid costs shall be paid on the date fixed before learned trial Court.

It is made clear that both the parties shall fully co-operate with the learned trial Court and matter be decided expeditiously.

December 04, 2018

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(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	No