

CRM-M-45606 of 2017

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

CRM-M-45606 of 2017
Date of Decision: 05.07.2018

Dheeraj Sharma

....Petitioner

Versus

Mithun Kaushik

....Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. Pankaj Gupta, Advocate, for the petitioner.
None for the respondent.

RAMENDRA JAIN, J. (ORAL)

Through this petition under Section 482 Cr.P.C. prayer has been made for setting aside order dated 15.06.2017 of the learned Judicial Magistrate Ist Class, Faridabad, whereby complaint of the petitioner under Section 138 of the Negotiable Instruments Act was dismissed in default.

Learned counsel for the petitioner *inter alia* contends that on 16.05.2017 neither petitioner nor respondent appeared on account of jotting down wrong date. Therefore, learned Magistrate ordered for issuance of notice to both of them and their counsel as well for 15.06.2017. For the adjourned date i.e. 15.06.2017, Ahlmed did not issue any notice. Therefore, learned Magistrate issued warning to the Summoning Clerk/Ahlmed and simultaneously dismissed the complaint illegally in default, observing that there was no necessity to issue any notice, which observation of the Magistrate is illegal, inasmuch as the learned Magistrate had no power to review its own earlier order for issuance of notice to both the parties.

Despite service, no one has appeared on behalf of the respondent.

Heard.

Ravinder Singh
2018.07.06 17:58
I attest to the accuracy and
authenticity of this document

In view of above, impugned order being illegal is set aside.

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Learned Judicial Magistrate Ist Class, Faridabad, is directed to restore the complaint to its original number and proceed with the same in accordance with law.

Disposed of.

July 05, 2018
R.S.

(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No