

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

CRM-M-7366 of 2015(O&M)

Date of Decision: 01.02.2018

M/S R.S. FASTNERS PVT. LTD.

....Petitioner

Versus

SHIV KUMAR SINGLA

....Respondents

CORAM:HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Brijeshwar Singh Bhalla, Advocate
for the petitioner.

Mr. Ompal Sharma, Advocate
for the respondent.

MAHABIR SINGH SINDHU, J.(Oral)

The present petition has been filed under Section 482 of the Code of Criminal Procedure for quashing of the complaint bearing No. 55 dated 25.07.2013 (Annexure P-2) under Section 138 of the Negotiable Instrument Act, order dated 14.08.2013 (Annexure P-4) thereby condoning the delay in filing the complaint without issuing notice to the petitioner and the summoning order dated 14.08.2013 (Annexure P-5).

Learned counsel for the petitioner has contended that learned trial Court while passing the impugned order dated 14.08.2013 has erroneously recorded in paragraph 4 that *“I have heard contentions raised by both the parties”* but as a matter of fact even no notice was there to the petitioner/respondent No.1 in the complaint and therefore, the approach of the learned trial Court is wholly erroneous.

Learned counsel for the respondent has vehemently

opposed the contention on the ground that although the recital by learned trial Court is not correct, but there was only 2/3 days delay.

I have heard learned counsel for the parties and perused the paper book.

There is no doubt that the delay was not too much, but the reasoning given by the learned trial Court that both the parties have been heard is patently wrong and not defensible.

In view of the above, impugned order is set aside and the matter is remanded back to the learned trial Court to decide afresh.

Both the parties are directed to appear before learned trial Court on 21.02.2018 and learned trial Court shall decide the matter expeditiously.

[MAHABIR SINGH SINDHU]
JUDGE

February 01, 2018
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Whether speaking/reasoned
Whether reportable?

yes/no
yes/no