

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

**CRM-M No. 61852 of 2018
Date of Decision:-21.12.2018**

Poonam Sharma @ Poonam Kaushik

...Petitioner

Versus

Sanjay Pandey and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present:- Mr. Sunil Kumar Rana, Advocate
for the petitioner.

MANOJ BAJAJ J.(Oral)

Petitioner Poonam Sharma @ Poonam Kaushik is aggrieved against the order dated 21.7.2017 passed by the trial Court, whereby her complaint under Section 138 of Negotiable Instruments Act, 1881 was dismissed for want of prosecution.

On 21.7.2017, however, the counsel for the complainant, namely, Ishwar Singh, Advocate had appeared before the trial Court and pleaded no instructions on behalf of the complainant.

Learned counsel appearing for the petitioner contends that the summoning order in the complaint stood issued on 16.2.2016 and thereafter the case was adjourned for service of the accused.

Learned counsel for the petitioner has invited the attention of

the Court to the pleadings contained in para 4 of the petition, wherein it is mentioned that the petitioner wrongly noted the date of hearing as 24.7.2017, instead of actual date i.e. 21.7.2017. Even otherwise, the appearance on behalf of complainant would have been formal as the case was fixed for service/appearance of the accused. Besides, it is not a case where the complainant or the Advocate both were absent as counsel had appeared and, therefore, the Court ought to have issued notice to the complainant at least before passing this extreme order of dismissal of the complaint.

The justification offered by learned counsel appears to be reasonable and the same is accepted. Considering the above facts, this Court deems it unnecessary to issue notice to the accused, who is yet to put in appearance before the trial Court. In case the complaint is restored, no prejudice would be caused to the respondent.

Resultantly, the impugned order dated 21.7.2018 passed by the trial Court, is set aside. The complaint is restored to its original number. The petitionere/complainant is directed to appear before the trial Court on 28.1.2019 and the trial Court shall thereafter proceed with the complaint in accordance with law.

The petition is allowed.

December 21, 2018
Vijay Asija

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes / No
Yes / No