

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

126

CRM-M-2006 of 2019

Date of decision: 17.01.2019

Harjinder Singh

..Petitioner

Vs.

Gurdev Singh

..Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Lakhwinder Singh Mann, Advocate
for the petitioner.

RAMENDRA JAIN, J.(ORAL)

1. Through this petition under Section 482 Cr.P.C., prayer has been made for quashing of impugned order dated 18.12.2018(Annexure P-2) of the trial Court, whereby the complaint titled as "Harjinder Singh Vs. Gurdev Singh" bearing CIS No. NACT 156-2018, under Section 138 of the Negotiable Instruments Act, 1881 filed by the petitioner was dismissed in default, on account of his non-appearance.

2. Learned counsel *inter alia* contends that the complaint was filed on 10.07.2018 and the same was dismissed in default on 18.12.2018 on a single default of non-appearance of the petitioner. The punishment of dismissal of complaint awarded to the petitioner is dis-proportionate to the act of petitioner of non-appearance on a single date. The petitioner would suffer an irreparable loss, if the impugned order dated 18.12.2018,

dismissing the complaint of the petitioner is not set aside. The instant petition has been filed, in view of the fact that the Magistrate, has no power to review his own order of dismissal of the complaint.

3. After giving anxious consideration to the submissions made by learned counsel for the petitioner, this Court is of the considered opinion that nobody should be condemned unheard. Duty of the Courts is to impart justice to the litigants and not to non-suit them on technical grounds. In the instant case, only on a single default of the petitioner or its counsel, its complaint was dismissed vide impugned order which is a very harsh step taken by the trial Court.

4. Considering the overall facts and circumstances of the case, the impugned order dated 18.12.2018 (Annexure P-2), is set aside, subject to costs of ₹ 2,000/- to be deposited with the Punjab State Legal Services Authority, within a period of one week from today, failing which the instant petition shall be deemed to have been dismissed. The trial Court is directed to proceed further with the complaint of the petitioner in accordance with law, by restoring the same to its original number.

5. The instant petition stands disposed of, accordingly.

January 17, 2019
Poonam Sharma

(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned Yes/No
Whether reportable Yes/No