

CRA-AS-65-2018

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

CRA-AS-65-2018

Date of Decision:19.11.2019

Harpal Boora

... Appellant

Versus

Rajesh Attri

... Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Umesh Kumar Kanwar, Advocate,
for the appellant.

Mr. Rajesh Duhan, Advocate,
for the respondent.

HARNARESH SINGH GILL, J.(Oral)

This appeal has arisen out of the acceptance of CRM-A-693-MA-2015 granting leave to file appeal vide order dated 02.08.2018 passed by a Coordinate Bench of this Court.

Notice of motion was issued.

I have heard learned counsel for the parties and with their able assistance, have gone through the record.

This criminal appeal has been filed against the orders dated 19.12.2014 and 11.02.2015 passed by the learned Judicial Magistrate Ist Class, Karnal, whereby the complaint filed by appellant-Harpal Boora against respondent-Rajesh Attri, under Sections 138 and 142 of the Negotiable Instruments Act, 1881, was dismissed in default for non-

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appearance, and the application filed by the appellant for restoration of the complaint was dismissed on the ground that restoration application was not maintainable, respectively.

It is settled law that the rights of the parties should be decided on merits as far as possible. The court should do substantial justice between the parties and should not go into the technicalities of the law. Where technical consideration and merit or cause of substantial justice are pitted against each other, the cause of merit and substantial justice is to prevail.

In view of the above, the present appeal is allowed and the impugned orders are set aside, subject to payment of costs quantified at Rs.15,000/-, out of which Rs.7500/- to be deposited with the District Legal Services Authority, Karnal, and Rs.7500/- to be paid to the respondent-accused.

The complaint is ordered to be restored to its original number and at the stage from where it was dismissed by the trial Court. The trial Court is directed to proceed further as per law.

The parties through their counsel are directed to appear before the trial Court on 19.12.2019.

19.11.2019

parveen kumar

(HARNARESH SINGH GILL)
JUDGE

Note:	Whether speaking/reasoned	:	Yes/No
	Whether reportable	:	Yes/No