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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-A-105-MA-2017 and
CRA-AS-11-2019
Date of decision : 10.01.2019

Devender Singh

.....Applicant.

Versus

Mahesh Kumar

..... Respondent.

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Rao Ajender Singh, Advocate for applicant.

1. *Whether the Reporters of local newspaper may be allowed to see the judgment ?*
2. *To be referred to the Reporter or not.*
3. *Whether the judgment should be reported in the digest ?*

KULDIP SINGH J. (ORAL)

As per office report, respondent is duly served but no representation has been made on his behalf. Hence, proceeded against ex-parte.

Leave to appeal granted. Registry is directed to assign the number of the appeal.

CRA-AS-11-2019

Applicant-appellant has filed a complaint under Section 138 read with Section 142 of the Negotiable Instruments Act, 1881. It comes out that vide order dated 16.3.2015, (Annexure P-1) passed by Judicial Magistrate Ist Class, Narnaul personal appearance of the complainant-appellant was exempted with a direction that complainant-appellant shall appear as and when directed by the Court through his counsel. On 1.12.2016, counsel for complainant-appellant did not appear, whereas accused-respondent was present in the Court. Consequently, complaint was dismissed in default vide order dated 1.12.2016 passed by Judicial Magistrate Ist Class, Narnaul.

After going through the impugned order dated 1.12.2016, I am of the view that it was only one default on the part of the counsel for complainant-appellant. When the accused-respondent has put in appearance trial Court could have adjourn the case and grant one more opportunity to the complainant-appellant or his counsel to put in appearance. Now the complainant-appellant wants to contest the case on merits.

In view of above, present appeal is allowed and the impugned order dated 1.12.2016 passed by Judicial Magistrate Ist Class, Narnaul is set aside

**(KULDIP SINGH)
JUDGE**

10.01.2019
preeti

Whether speaking / reasoned
Whether Reportable:

Yes
No