

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

222

CRM-A-2357-MA-2018 (O & M)
Date of Decision:15.01.2019

Sham Lal

...Petitioner

Versus

Ashwani Kumar

...Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Naresh Gopal Sharma, Advocate
for the applicant.

MANOJ BAJAJ, J.(ORAL)

CRM-37064-2018

For the reasons stated in the application, which is duly supported by an affidavit, delay of 11 days in filing the present application seeking special leave to appeal is condoned.

Application is allowed.

Main case

Sham Lal preferred this application to challenge the order dated 18.07.2018, whereby complaint brought by him under Section 138 of the Negotiable Instruments Act, 1881 was dismissed for not filing the process fee.

It is evident from the case file that summoning order was passed against accused on 25.01.2018 and thereafter on two occasions, the matter was adjourned for filing the process fee. On 11.05.2018, last

opportunity was granted and the case was fixed for 18.07.2018. Still the compliance was not made and the Court proceeded to dismiss the complaint under Section 204(4) Cr.P.C.

Learned counsel for the applicant contends that the applicant/complainant would deposit the requisite process fee within a period of one week. The impugned order does not strictly amounts to acquittal and, therefore, the present application is treated under Section 482 Cr.P.C.

The complaint is at the initial stage wherein the accused is yet to put in appearance and, therefore, it is not necessary to issue notice to him at this stage. The impugned order passed by the trial Court may be correct in view of lazy conduct of complainant. However, in the interest of justice, the applicant/complainant is given one more opportunity to deposit the necessary process fee within a period of two weeks from the date of receipt of certified copy of the order.

Accordingly, the application is allowed and the impugned order dated 18.07.2018 passed by the learned Chief Judicial Magistrate, Ludhiana is set aside. Complaint shall be restored to its original number and the learned trial Court shall proceed with the same in accordance with law.

15.01.2019

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(MANOJ BAJAJ)

JUDGE

Whether Speaking/Reasoned: Yes/No

Whether Reportable : Yes/No