

223

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-A-274-MA-2018

Date of decision-18.07.2019

Manish Goyal

...Applicant

Vs.

M/S Jai Ganesh Khitwear and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Hitesh Pandit, Advocate for the applicant.

MANOJ BAJAJ, J.

Manish Goyal-applicant has preferred this application under Section 378(4) Cr.P.C. for granting special leave to appeal to challenge the order dated 23.08.2017 passed by the learned Judicial Magistrate First Class, Ludhiana whereby the complaint registered under Section 138 of Negotiable Instruments Act was dismissed for want of prosecution and accused person was discharged.

Learned counsel appearing on behalf of the appellant contends that inadvertently a wrong date i.e. 30.08.2017 was noticed instead of 23.08.2017. Learned counsel further contends that the absence on the given date was *bona fide* and the Court has proceeded to pass the extreme order of dismissal of the complaint.

The impugned order strictly does not amount to acquittal and,

therefore, on the oral request of the applicant, the application is treated under Section 482 Cr.P.C.

At this stage, it may not be necessary to issue notice to the accused, as it may cause burden upon him to contest this petition, wherein the prayer is for restoration of the complaint.

This Court finds that the explanation offered for the absence of applicant/petitioners is reasonable and accepted. It is to be borne in mind that many a times the complainant or counsel can be prevented by sufficient reasons on a given date from putting in appearance before the Court and every such absence necessarily cannot be construed as deliberate or wilful.

Considering the above, the impugned order dated 23.08.2017 is set aside and the complaint is restored to its original number, and the trial Court shall proceed with the complaint in accordance with law.

Let the parties appear before the trial Court on 16.08.2019.

Disposed off.

(MANOJ BAJAJ)
JUDGE

18.07.2019

vanita

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No